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Ideas on Liberty

JULY 1972

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VOL. 22, NO. 7 • JULY 1972

Power to the People: the Mask of Despotism — Carl A. Keyser — 387
How the earliest seeds of socialism sprouted and grew in the United States in the late nineteenth and twentieth century.

Vouchers: Government Control of Private Schools? — John P. Cahill — 397
"It is hardly lack of due process for the government to regulate that which it subsidizes."

Ownership: Free but Not Cheap — Gary North — 401
The private owner cannot escape the costs of ownership and the obligation to act as steward of his goods for the public's benefit.

Off the Beaten Track — Leonard E. Read — 415
There is no way to follow the crowd to a new idea or a better way of life.

The Founding of the American Republic:
12. The Scourge of Inflation — Clarence B. Carson — 419
The early American attempts at deficit financing were "not worth a Continental."

The Pine Tree Shilling — Kevin Cullinane — 434
The story of the first private coinage in America.

Zoning Laws: The Case for Repeal — David J. Mandel — 437
The more scarce and valuable a given resource, the more urgent the need for private ownership and market disposition.

Book Reviews:

"Safe Places" by David and Holly Franke — 444
"Freedom and the Law" by Bruno Leoni — 447

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A MONTHLY JOURNAL OF IDEAS ON LIBERTY

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POWER TO THE PEOPLE

the mask of despotism

CARL A. KEYSER

THERE IS a specially apt paragraph in *The First Leftist,*[1] a pamphlet by Dean Russell, which is worth quoting.

The rallying cry of this new Left [the Jacobins in 18th century France] was: All power to the people. And as always it sounded good to the people. But the point that the French people missed is the same point that haunts the world today [1951]. It is this: The people can not themselves individually exercise the power of government; the power must be held by one or a few persons . . . whether the form of government is a kingdom, a dictatorship, a democracy, or whatever. If the people truly desire to retain or regain their freedom, their attention should first be directed to the principle of *limiting the power of government itself* instead of merely demanding the right to vote on what party or person is to hold the power. For is the victim of government power any the less deprived of his life, liberty, or property merely because the depriving is done in the name of – or even with the consent of – the majority of the people?

According to Elie Halévy[2] socialism was considered by its early advocates as a natural evolution of liberty, fulfillment of the revolution of 1789, the end of the subjection of labor by capital.

"But on the other hand," wrote Halévy, "it is also a reaction against individualism and liberalism; it proposes a compulsory organization in place of outworn institutions destroyed by the Revolution." Thus, old despotisms were to be replaced by new ones. Men were again to surrender themselves to the tyranny of the state.

In the years following the Napoleonic wars Charles Comte and Charles Dunoyer founded a peri-

Mr. Keyser is Commonwealth Professor Emeritus of the University of Massachusetts at Amherst where he had specialized in materials engineering and metallurgy. This article is adapted from a book manuscript Mr. Keyser is completing on the expanded role the Federal government assumes in our lives.

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odical called *Le Censeur* (The Censor) in France. The observations made in 1815 have permanent validity.

"The first way," wrote Dunoyer, "that occurs to man to satisfy his needs is to take; plunder was the first industry, as it was the first end of human association; history hardly knows a society that was not first formed for war and pillage."[3]

"The first need of man," stated Charles Comte along the same line of thought, "is to provide for his subsistence, and, as we have already seen, he can do so only by the spontaneous product of nature, or by what he seizes from his fellows, or by the produce of his industry."[4]

Government Subverted

The justification for peaceful government is to prevent the seizure of one man's life and property by another. Today, government has been subverted to perform the very function the prevention of which justifies its existence: pillage. This occurs when the government attempts to fulfill what are commonly called social needs: it takes from some and gives to others.

"In their present state," according to Dunoyer at the start of the nineteenth century, "the nations can be compared to swarms made up equally of hornets and bees, swarms in which the bees agree to produce torrents of honey for the hornets, in the hope of keeping at least a few combs for themselves. Unhappily, there is not always even a small part left for them . . . Man's concern is not with government; he should look on government as no more than a very secondary thing – we might almost say a very minor thing. His goal is industry, labor, and the production of everything needed for his happiness. In a well-ordered state, the government must be only an adjunct of production, an agency charged by the producers, who pay for it, with protecting their persons and their goods while they work. In a well-ordered state, the largest possible number of persons must work, and the smallest possible number must govern."[5]

The same thought was expressed by Count Henri Saint-Simon, a brilliant but somewhat erratic and eccentric philosopher-economist, who was cognizant of the work of Comte and Dunoyer and who ironically later became the founder of French socialism.

"Society," stated Saint-Simon, "needs to be governed as little as possible, and there is only one way to accomplish that – to be governed as cheaply as possible."[6]

Later Saint-Simon and his fol-

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lowers forgot this advice and advocated a tyrannical industrial state ruled by a scientific elite.

Dunoyer and Comte divided society into two classes: those who wish to plunder and those who wish to produce and exchange in peace. Dunoyer wrote of the struggle between these two classes.

"We must not forget," wrote Dunoyer of the peaceful producer class, "that its members are still few in numbers and isolated from each other; that there are few means of communication and defense; in a word it is not organized, while, generally speaking its enemies are organized."[7]

These and similar thoughts made their way via Saint-Simon to Auguste Comte, the founder of positivism, to Buckle, the historian, and finally to Herbert Spencer, the economist and philosopher. The philosophy was accepted in England, the United States, and elsewhere, playing a major part in the nineteenth-century economic expansion of the American West.

By the end of the nineteenth century socialism was thriving, claiming to be a new liberalism. It took hold first in Germany, later in England and the Scandinavian countries, and then in violent form, in Russia. Finally it evolved into the Fascism of Italy, the National Socialism of Germany, and the welfare state in England and the United States. The struggle between the peaceful producers and plunderers still goes on. The peaceful producers are "few in numbers and isolated from each other . . . there are few means . . . of defense . . . , [the producer group is] not organized, while, generally speaking its enemies are organized."

Near the end of his book Elie Halévy asked, "Am I going to be told about a future state of the human race, when a perfect socialism will be united with a perfect freedom? What freedom? The freedom to do nothing, as in the abbey of Thélème, or the absence of obedience to a master, along with incessant labor like an ant or a bee? This ultra future . . . goes beyond the limits of my vision. And when I see men giving themselves up to these dreams, I can not help but think of Kant's dove trying to fly in the void or of Hegel's swimmer without water."[8]

Loss of Freedom

Socialism ends, although the end may be many years in coming, in tyranny and loss of freedom. The nineteenth-century French Socialists were followed by Napoleon III, the Socialists of Russia lasted a few months and yielded to Bolshevism, the post-war Socialists of Italy were followed by Mussolini's Fascists, and after a

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dozen or so years the Socialists of Germany succumbed to Hitler's terror. In Spain, Franco was Socialism's heir. Once the terror takes over only a war seems able to bring about a change, and there is no assurance that a new terror will not replace the old. Under some forms of terror vestiges of private ownership were allowed to remain, as attempts were made to gain social security without completely extinguishing economic freedom. But freedom is indivisible and freedom compromised is freedom lost.

Henry Watterson, the grand old editor of the oldtime Louisville *Courier-Journal* was rightly fearful of unlimited government, even if it was the choice of the people.

"We are told by Herbert Spencer," wrote Watterson, "that the political superstition of the past having been the divine right of kings, the political superstition of the present is the divine right of parliaments and he might have said of peoples. The oil of anointing seems unawares, he thinks, to have dripped from the head of the one upon the heads of the many, and given sacredness to them also, and to their decrees."

"That the Proletariat, the Bolsheviki, the People are on the way seems plain enough," he wrote in 1919 with unusual foresight. "How far they will go, and where they will end, is not so clear. With a kind of education – most men are taught to read, very few to think – the masses are likely to demand more and more for themselves. They will continue strenuously and effectively to resent the startling contrasts of fortune which opportunity and aptitude have created in a social and political structure claiming to rest upon the formula 'equality for all, special privilege for none'."

"The law of force," continued Watterson, "will yield to the rule of numbers. Socialism, disappointed by its Utopia, may then repeat the familiar lesson and reproduce the man-on-horseback, or the world may drop into another abyss, and, after ensuing 'dark ages'. . . emerge with a new civilization and religion."[9]

At another point in *Marse Henry*, Watterson nevertheless wrote: "As poorly as I rate the reign of majorities, I prefer it to the one-man power, either elective or dynastic."[10]

Socialism and Mediocrity

James Gibbons Huneker was a connoisseur of music, the arts, and literature. He lived from 1860 to 1921 and witnessed the socialist drift of the Western world, including the Red revolution in Russia. His biographer, Arnold T. Schwab, claims that Huneker was "the

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most versatile and one of the most entertaining and influential American critics . . ." Huneker's interests ranged far beyond the arts into political ethics and led him to spend time in the greasy restaurants of New York arguing communism with those of the vanguard such as Emma Goldman.

The last book Huneker wrote, *Variations,* was a collection of essays published posthumously in 1921. [11] In his powerful essay, "Socialism and Mediocrity," Huneker quotes Yves Guyot[12]: "There are three words which socialism must erase from the facade of our public buildings, the three words of the republican motto: Liberty, Equality, and Fraternity. Liberty because socialism is a rule of tyranny; equality because it is a rule of class; fraternity because its policy is that of class war." Huneker himself then goes on to write: "M. Guyot might have quoted Napoleon, a realist, a cynic in politics, for he knew its seamy side, who said: 'Tell men they are equal and they won't bother about liberty.' How true – if we are all reduced to the level of slaves and live in filth and depravity, we shall not be concerned with freeing ourselves from this condition, providing we all equally enjoy the same conditions of our non-existence.

"Guyot . . . attacks Karl Marx on his weakest flank, and, incidentally, proves him not to have been a proletarian, but the son-in-law of a Prussian Junker. The selfishness of Marx, his tyrannical behavior, his unphilosophical wrath when opposed by two such intellectual giants as Bakunin[13] and Lassalle[14]; his jealous attitude toward Ferdinand Lassalle, especially after his tragic death, are all well known. Able but frequently unscrupulous men amuse the idle and attract the multitudes – such are the leaders . . . These leaders are plagiarists, with some variations, of all the communist romances inspired by Plato."

The Exploitation Theory

Not only did Marx and Lenin plagiarize Plato but, according to Huneker, they "built up their theories upon a sentence of Saint-Simon and three phrases of Ricardo's. Our author [Huneker is quoting Guyot] gives these examples: 'German socialism is derived from two sources: (1) The French doctrine of Saint-Simon; *"The way to grow rich is to make others work for one,'* which in Proudhon's mouth becomes *'the exploitation of man by man.'* (2) Three formulas of Ricardo, viz.: (a) *'labor is the measure of value'; (b) 'the price of labor is what provides labor in general with the means of subsistence, and of perpetuating his species without*

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either increase or diminution'; (c) *'profits decrease in proportion as wages increase.'*" Saint-Simon and Proudhon are guilty of vicious distortions and Ricardo of abject assininity unworthy of yet another tiresome refutation.

"No Socialist," Huneker continues, "has succeeded in explaining the conditions for production, the remuneration, and the distribution of capital in a collectivist system. No Socialist has succeeded in determining the motives for action which an individual would obey. When pressed for an answer, they allege that human nature shall be metamorphosed, but that the individual remains a constant quantity! Rank materialism, all this, and absolutely without vision . . .

"It may be said that man is ready for every form of sacrifice save one: nowhere and at no time has he been found to labor voluntarily and constantly from a disinterested love for others. Man is only compelled to productive labor by necessity, by fear of punishment, or by suitable remuneration. The Socialists of today, like those of former times, constantly denounce the waste of competition. Competition involves losses, but biological evolution, as well as humanity proves that they are largely compensated by gain. Furthermore, there is no question of abolishing competition in socialistic conceptions; the question is merely one of substitution of political for economic competition. If economic competition leads to waste, and claims its victims, it is none the less productive. Political competition has secured enormous plunder to great conquerors such as Alexander, Caesar, Tamerlane, and Napoleon; it always destroys more wealth than it confers on the victors. The Socialist formulates a theory of robbery and calls it 'restitution to the disinherited.' Disinherited by whom? Disinherited of what? Let them produce their title deeds . . . Georges Bernard says that 'socialism will be a regime of authority.' On this point Guyot grimly agrees with him. In reality it will be the most oppressive spiritual and material system ever invented by man.

" . . . The future – which is said by some to belong to socialism – will work out the problem of mediocrity, especially if socialism is involved; mediocrity and socialism are not poles asunder. Concrete houses filled with concrete people who will eat, drink, and think alike will cover the land. Everything will be concrete, even our opinions. In his concrete Capitol a concrete President will devise concrete laws. Art, music, literature will be so concrete that our native Gradgrinds, hungry for

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hard facts, will be ravished into the seventh concrete heaven . . . And this coming age of concrete, wherein all must walk and look alike, is it not a dream compared with which Dante's Inferno would be a Garden of Armida?"[15]

Boris Pasternak would probably have answered, "Yes."

Early Signs of Socialism

Socialism, according to the classic definition, concerns itself with the collective ownership of the means of producing and distributing goods, under democratic government control. In practice Socialism has been expanded to cover government ownership, operation and control of all the facilities and institutions which, even indirectly, contribute to the production and distribution of goods. Additionally, Socialist governments have assumed responsibility for providing those services which are used by most citizens, and for providing material security for all of their citizens. According to this concept the government of the United States has been engaged in Socialist activities ever since it was established.

Post-offices and post-roads were authorized in the Constitution under Article I. Certainly this would represent ownership and control of facilities which contribute indirectly to the production and distribution of goods. Additionally, the provision of a service used by most citizens is involved. (The argument is often made that services used by all citizens should be provided by the government since this will take the profit out of the activity. How about breathing, for instance?) Eventually the Congress made the handling of mail a government monopoly, and after 182 years of dismal deficits, the Socialistic postal service has been changed to an independent government agency which is supposed to resemble a private corporation and which is supposed to be self-supporting. It remains, however, a government agency, presumably owned by the people, and it is not less Socialistic than it was before.

The big-government liberals, who double as humanitarians when they dispense the money they have stolen from the thrifty, until recently revered Thomas Jefferson as a near-God, which, of course, he wasn't. Then one of his biographers made the rather unremarkable disclosure that Jefferson had been a Negro slaveholder and this relegated him to the position of a latterday leper. Some years earlier it had been revealed that Jefferson regarded government as "inherently corrupt, oppressive, and malevolent."[16] This should have forewarned the liberals and caused some anguish, but

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it didn't. Perhaps it was because, in spite of Jefferson's mistrust of government, he was responsible for several early American socialist sorties.

The first Jeffersonian socialist endeavor was the Louisiana Purchase of 1803, by which the United States became a dealer in real estate. This was an atypical socialist activity in that it proved enormously profitable. The profits from the sale of Louisiana Purchase land helped to pay the cost of running the government for the second fifty years of the country's existence. Although the international legality of the enterprise was authorized under the treaty-making powers granted by the Constitution, there is nowhere a clear authorization for the United States to engage in a real estate development the size of the Louisiana purchase. Acquisition of territory on a limited scale for purposes of defense would certainly be permissible, but it is questionable whether a big purchase could be justified under the general welfare clause. In any event, who was to question the constitutionality of such a step? This and later real estate ventures of the United States have proved to be quite generally profitable in spite of their socialist nature. Perhaps it all proves that even socialists can make money in real estate.

A Federal Surplus!

By 1806 the income of the Federal government had grown beyond what was needed for the limited government the nation then enjoyed. Small amounts of money were needed for service of the national debt and for national defense, the major government activity. Unbelievable as it now seems, there was great concern over what to do with surplus funds! Handling this problem, Jefferson showed himself to be the eternal politician. Instead of recommending that customs duties, the major source of Federal income, be reduced, he sought ways to increase spending. "Congress," he wrote, "should explore the possibilities of Federal appropriations for the great purposes of Federal education, roads, rivers, canals, and such other objects of public improvement as may be thought proper."[17] It is to Jefferson's everlasting credit that he was enough of a constitutionalist to have felt that an amendment would be needed to permit such a socialist invasion of fields heretofore largely private. In this he was unlike twentieth-century politicians who increasingly agree with Mr. Dooley that "th' Constitution iv th' United States is applicable on'y in such cases as it is applied to on account iv its applicability."

It is noteworthy that for 82 of

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the first 112 years preceding World War I surpluses were a problem.[18] What a lovely problem! This brings to mind the 1970 row over federal-state revenue sharing. [19] If the states are in need of more money and the Federal government is so overburdened with cash that it can afford to give some to the states, why not simply reduce Federal taxes and allow the states to raise their own funds? Under this scheme the money would be raised where it is spent and the public could keep a better eye on how it was spent. Under revenue-sharing the Federal government will parcel out its favors subject to the influence of political pressures far removed from the people who fill the till. This is hardly likely to contribute to careful taxing and spending.

The socialist proposal of Jefferson that Congress consider Federal support of education have led many to consider him as the father of publicly-supported education. Not until about sixty-five years later did Federal support of education become a reality. In 1862 the first Morrill Act, known as the Land Grant Act, was passed providing for the establishment and maintenance of state colleges. Republican president, Rutherford B. Hayes (1877-1881), later proposed that Federal grants be made for public education.

"Whatever government can fairly do," wrote Hayes, "to promote free popular education ought to be done. Wherever general education is found, peace, virtue, and social order prevail and civil and religious liberty are secure."[20]

Hayes was not a very reliable prophet, as the recent riots, turmoil and general breakdown of the legal and social traditions of the country have proved. Events in the 1930's in Germany, where public education had long been a tradition, also seem to show that education isn't the answer to all men's problems.

Republican presidents Arthur (1881-1885) and Harrison (1889-1893) continued pressing for Federal support. In 1890 the second Morrill Act was passed granting $25,000 annually to each of the land grant colleges. In 1971 Congress appropriated 18 billion dollars in aid to education. Socialist enterprises have a way of growing on you.

In spite of all, socialist intrusions by the end of the nineteenth century represented a minuscule portion of American endeavor. The twentieth century has been quite different.

The Federal government entered the field of social security under President Franklin Roosevelt. Social security was not an invention of Roosevelt nor of his braintrust-

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ers, Bismarck having imposed it in Germany many years before. From Germany the idea spread to the countries north and west of Germany until it reached the United States. In this country the material security an individual might attain was, prior to Roosevelt II, largely a private matter attended to by individuals themselves or by their relatives and friends, the latter often acting through churches and charitable or fraternal organizations. In addition to these private sources of material security, tax-supported services such as local "poor farms" were provided by towns, cities, counties, and states. Herbert Hoover and the Republican leaders of the 1920's and 1930's endorsed *local* tax-supported efforts and private charity as the solution to helping the needy. The socialism represented by tax-supported welfare was on a state or lower level. Roosevelt's contribution to socialism consisted of federalizing the old-time local socialist endeavors. Accompanying the federalization and wild expansion of these socialist activities there was a simultaneous and enormous transfer of power from individuals and local communities to Washington.

The socialism that has been with us almost since the founding of the republic has been sponsored at times by the political ancestors of both Democrats and Republicans. Since the turn of the century, and particularly in the middle third of the century, both parties have accelerated their sponsorship. But it must be remembered that the politicians do not lead the people. They follow.

• FOOTNOTES •

1 Russell, Dean, *The First Leftist* which appeared in *In Brief*, vol. 7, no. 3, Foundation for Economic Education, Irvington-on-Hudson, New York, 1951, p. 7.

2 Halévy, Elie, *The Era of Tyrannies, Essays on Socialism and War*, trans. by R. K. Webb, Doubleday and Co., Inc., N.Y., 1965.

3 *Ibid.*, p. 29.

4 *Ibid.*, p. 29.

5 *Ibid.*, p. 31.

6 *Ibid.*, p. 32.

7 *Ibid.*, pp. 32, 33.

8 *Ibid.*, pp. 313, 314.

9 Watterson, Henry, *Marse Henry, An Autobiography*, v. II, pp. 289-290.

10 *Ibid.*, pp. 158, 159.

11 Huneker, James Gibbons, *Variations*, Charles Scribner's Sons, N. Y., 1921.

12 French laissez-faire economist, 1843-1928.

13 Russian anarchist, nihilist, and terrorist who believed in anarchy excepting in organizations *he* controlled. 1814-1876.

14 German socialist and economist. 1825-1864.

15 See Huneker, *op. cit.*, pp. 111-120.

16 Clinton Rossiter quoted in Kimmel, Lewis H., *Federal Budget and Fiscal Policies*, 1789-1958, The Brookings Institution, Washington, D. C., 1959, p. 3.

17 See Kimmel, *op. cit.*, p. 16.

18 *Ibid.*

19 Federal deficit sharing, rather than Federal revenue sharing has yet to be proposed. It might be more appropriate.

20 See Kimmel, *op. cit.*, p. 47.

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VOUCHERS:

Government Control of Private Schools?

JOHN P. CAHILL

I FEEL rather like the man in the science fiction novel, who has stumbled upon a great horror and is not believed until it is nearly too late. I have sixteen years of private education under my hat and wish the private schools of America nothing but prosperity.

So how can I be against the "voucher" system? Do I not realize that this system is designed to save the failing private schools and provide them with the needed financial assistance; that it is designed to promote the greatest amount of freedom of choice for the parent regarding the education of his children?

I know what it is designed to do. And I know that what it is designed to do and what it may in fact do, are not necessarily synonymous.

Mr. Cahill of Lakewood, California, plans to enter Law School in the fall.

The scheme is designed to work this way: The level of government which has enacted the program will present to the parents of each child of school age a voucher representing an agreed upon amount of money; the parent will present this voucher as tuition to the school, public or private, where the child is enrolled; the school in turn will take this voucher to the proper government agency, where it will be cashed.

It is alleged that in this way everyone will be satisfied and freedom of choice will be preserved. Parents are happy; they may now send their children to whatever school they choose with no anxious thought for expenses. The private schools are happy; they will prosper and grow through the influx of new students and their vouchers. Religious schools are happy; they may now take advantage of

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the government largesse, and (as it is the parent that is being helped directly and not the school) the Supreme Court is not offended. The parish school will once more flourish throughout the land. Right?

Principles and Facts Ignored

Well, perhaps. And perhaps not. As a "conservative" program of action, the voucher system ignores some basic principles and obvious facts.

1. The unwillingness or inability of the users to continue to pay the tuition and operating costs of the private schools is one reason that they are in need of financial assistance.

2. This inability to pay is in no small part brought about by increased taxes and inflation caused by increased government deficit spending.

3. No one can give what he does not have. If the government is going to pay the expenses of all the children in private schools in addition to those in public schools, it must find a source for the additional funds that will be needed.

4. The government has two sources for these funds: increased taxes or further inflated currency.

Not to be forgotten are the additional hundreds of highly paid bureaucrats who will be needed to administer such a program. The result will hardly be the great triumph of justice which is predicted:

- The taxes of everyone who pays school taxes will increase.
- *Some* of these taxpayers will now receive a return for their money which they did not receive in pre-voucher days.
- Those with children in the public schools will be forced to pay increased taxes with no increased return.
- Those with no children in any school will pay increased taxes and continue to receive *nothing* in return.

How anyone could think that confusion and injustice will be anything but compounded with the implementation of this scheme, I do not know. But let us face the issue squarely: there are few today who will permit themselves the thought that feeding from the public trough is other than a virtuous act. Nevertheless, there are other arguments which may hit home where economic and moral ones have missed the mark.

We live in an age in which government, at all levels, is anything but disinterested. The bureaus and agencies of government are peopled with men beset with the meddling urge as never before in history. Money distributed by the government has seldom had more strings attached than now. Busing

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to achieve racial balance in the public schools is a good example.

The voucher scheme cries out to be used as an indirect licensing system for the private schools. There are already hints in the press that certain "modifications" and "safeguards" will have to be introduced into the program if it is passed. Private schools, for instance, that maintain a racial imbalance will not be able to cash their vouchers.

Some Perturbing Questions

There are other points upon which private, especially religious, schools might do well to meditate. Would a school be permitted to cash vouchers if that school promoted teachings contrary to the government policy, such as artificial birth prevention or abortion? Could a school with an "inadequate" sex-education program cash vouchers? Given the temper of the times, one would think that "accreditation" for participation would not come cheaply.

How could the bureaucrat think that it was other than his duty to "protect" the parent and child from the "misuse" of their new found freedom in a "below standard" school? May a school be dropped from the program because its graduates are untrained in sensitivity?

These thoughts must not be overlooked. They are discussed every day in the educational establishments, whether public or private. To think that they will not be considered by the agencies administering such a program is naive. After all, someone must administer the program and it must be administered according to someone's norms; why not the ones prevailing in the educational establishments? When one considers the intellectual and bureaucratic environment, the voucher system does not augur well for the private schools. In the main, it will serve to make them less private.

Let us suppose that a school's administration elects to stay out of the program or, having been in for a while, discovers restrictions that it cannot tolerate and decides to withdraw. In the first case, those who elect to stay out of the program will not be relieved of the burden of financing it. And the ostensible intent of the scheme is to aid those who are not now partakers of the public moneys. The second case seems highly unlikely. A school would have to be very wealthy indeed to survive if it were to reject its prevailing source of regular income, the government. A school which had grown dependent on the program could be dealt a mortal blow if it withdrew or was expelled from the program. How many parents would continue

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sending their children if the "free" tuition vouchers from the government were rendered worthless at this school, especially in the face of higher taxation to support the other private schools on the program?

Survival through Competition

But what of the private schools themselves? Won't they die out without some sort of government assistance?

Good schools will not die out. There is more to the plight of the private school than the ability of the user to pay. *Willingness* is a major factor. When the religious school is "secularized" or the denominational or other private school loses its tradition and becomes, in essence, no different than the public school, the sacrifice that a man must make to "pay twice" for his child's education loses all reason. Why should a man who is forced to support the public school system pay again for a private school education if the product is like that of the public school?

A return to the first principles of their founders may not save private schools. But it is a first step, and a giant one, in the right direction. The voucher system is a step backward and downward into the mire of government control of all aspects of our lives.

The man who is truly interested in quality education will look first to principles of freedom and honor. He may check the government schools to see if education based on compulsion in attendance and support can truly inculcate these principles. And then he must decide whether the voucher system increases freedom and yields an education based on principle or whether it leads to dependence on government, government control of our lives, and education based on force.

IDEAS ON LIBERTY

Educational Responsibility

THE PARENT can and should look beyond himself for specialized help in a proper education of his child, but neither parent nor teacher should be confused about the parent's ultimate responsibility or the proper role of the school in the upbringing of the young. Unfortunately, such distinctions have blurred in our society. The growth of the public school system has been more than matched by a bureaucracy to regulate its working.

GEORGE ROCHE III, *Education in America*

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GARY NORTH

OWNERSHIP

FREE BUT NOT CHEAP

Ownership of the means of production is not a privilege, but a a social liability. Capitalists and landowners are compelled to employ their property for the best possible satisfaction of the consumers. If they are slow and inept in the performance of their duties, they are penalized by losses. If they do not learn the lesson and do not reform their conduct of affairs, they lose their wealth. No investment is safe forever. He who does not use his property in serving the consumers in the most efficient way is doomed to failure. There is no room left for people who would like to enjoy their fortunes in idleness and thoughtlessness.

LUDWIG VON MISES[1]

THERE IS no more fundamental question in the field of political economy than that of the ownership of property. Marx, no less than Adam Smith, saw this clearly. Invariably, the question of ownership must raise the question of sovereignty. It also raises the knotty question of stewardship.

The roots of Western Civilization extend back to the Hebrews. The message of the law and the prophets of the Old Testament returned again and again to the issue of ultimate sovereignty. The message was clear enough: God is sovereign, and not men, nor any human institution. All earthly, human sovereignty is therefore derivative and limited.

The advent of rationalist and

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outright anti-Christian philosophies shifted the language of the sovereignty issue, but not the difficulties. If God were removed from the day-to-day operation of the universe, then sovereignty would have to be found elsewhere. Eighteenth-century rationalists – from Adam Smith to Jean Jacques Rousseau, from the Physiocrats to the Jacobins – attempted to discover where sovereignty lies, in principle, in human affairs, and their answers concerning the abstract locus of sovereignty determined the kind of society they hoped to attain through the use of political action.[2] Obviously, they arrived at very different answers.

It is possible, of course, to imagine full sovereignty apart from organized institutions possessing the right of legal compulsion. Sovereignty might be claimed strictly on the basis of conscience: voluntary tithing to a church, for example, or voluntary taxation by the state (as some market advocates have argued). As a rule, however, where we find any institution which claims sovereignty and receives support from a majority of the citizenry, we also find compulsion. In the United States, the classic example is the shift in sovereignty from the state-established religious denominations that once received tax funds to support their operations to the government educational institutions. The public schools became the institutionalized churches of the local communties, and recent court decisions indicate that they are about to become national churches.[3] Those who officially denied that church and state ought to be linked, in most cases simply substituted a new priesthood for the older one, i.e., the one which no longer could convince a majority of citizens of its claims of sovereignty.[4]

In modern, industrialized nations, the conflict over sovereignty is between the state and the market. In the Soviet Union, and presumably in the other iron curtain countries, the conflict is four-way: national state, planning region, market, and Communist Party.[5] As Ludwig von Mises puts it, the control of scarce economic resources can be handled in two ways: profit management or bureaucratic management.[6] Both are legitimate in their own spheres, but in the modern economy, statist bureaucratic management seems to be triumphant everywhere we look.[7]

Our universe operates in terms of the fact of economic scarcity. *At zero price,* there is greater demand for than supply of economic goods and services. (If there is an equality of demand and supply, or an excess of supply, the goods are not economic goods, and therefore

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they are not objects of human action.[8]) Those who possess skills or resources that are desired by the public at a price greater than zero must, by definition, act as stewards for those who are willing and able to purchase these desired products. No matter how secure his legal title to ownership, each owner must face the economic responsibilities of stewardship. This, in fact, is one of the miracles of market arrangements. The requirements of the many, considered as a collective unit, are met by the activities of individual men and women. The philosophical problem of the one and the many, which transforms itself into the problem of the collective and the individual, is answered in the realm of economics by the operation of the market. The fact that few men take the market seriously is indicative of the collapse of philosophical inquiry into this crucial intellectual problem over the last century.[9]

The Mixed-up Economy

The so-called "mixed economy" is one of the means by which men attempt to avoid the implications of the market's solution. "We are neither socialists nor capitalists" is a rallying cry for contemporary economists, theologians, and "practical" businessmen. These people think that they are saying something quite profound and very modern when they promote such a slogan. What they are saying is in reality quite muddled – the product of a lack of serious thought. To say that you favor neither full collectivization nor full economic anarchy is not saying anything at all. No one in a position of political authority advocates full collectivization, as the survival of the Liberman reforms and the private farm plots in the Soviet Union ought to indicate. Pure anarchism, while it may find more vocal and intelligent advocates than pure collectivism, has always been a tiny intellectual stream in human history. So the "neither socialist nor capitalist" slogan is not relevant as a philosophically unique statement. Mises, as usual, has seen the emptiness of such slogans, and he calls our attention to the crucial contribution the market makes in solving the problem of stewardship:

> All attempts to abolish by a compromise the contrast between common property and private ownership in the means of production are therefore mistaken. Ownership is always where the power to dispose resides. Therefore State Socialism and planned economies, which want to maintain private property in name and in law, but in fact, because they subordinate the power of disposing to State

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orders, want to socialize property, are socialist systems in the full sense. Private property exists only where the individual can deal with his private ownership in the means of production in the way he considers most advantageous. That in doing so he serves other members of society, because in the society based on division of labour everyone is the servant of all and all the masters of each, in no way alters the fact that he himself looks for the way in which he can best perform this service.[10]

Mixed economies do not stand still. They do not allocate resources and tasks according to permanent, fixed definitions. The mixed economy is a battleground for competing ideologies; without solid, concrete definitions of sphere sovereignty – rules that specifically limit, in principle, the operations of bureaucratic management and profit management – the idea of the mixed economy will remain an intellectual monstrosity and, in practice, a very poor means of getting things accomplished.

It is not possible to compromise, either, by putting part of the means of production at the disposal of society and leaving the remainder to individuals. Such systems simply stand unconnected, side by side, and operate fully only within the space they occupy. Such mixture of the social principles of organization must be considered senseless by everyone. No one can believe that the principle which he holds to be right should not be carried through to the end. Nor can anyone assert that one or the other of the systems proves the better only for certain groups of the means of production. Where people seem to be asserting this, they are really asserting that we must demand the one system at least for a group of the means of production or that it should be given at most for a group. Compromise is always only a momentary lull in the fight between the two principles, not the result of a logical thinking-out of the problem. Regarded from the stand-point of each side, half-measures are a temporary halt on the way to complete success.[11]

Serving Others

Is it really true that the market, as an impersonal mechanism, pressures individual citizens, in their role as economic actors, to satisfy the needs of their fellows? A brief analysis should help to answer this question in the affirmative. Consider the occupation of the farmer. He owns land and tools. He possesses skills and specialized knowledge. The more productive he is, the more specialized his labor and, presumably, his tools. These assets constitute his capital. The very fact of his legal ownership brings the problem of cost into the forefront: how much does it cost him to own his assets? The doctrine of alternative costs

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tells us that he must forfeit the use of all those economic goods and services that he could purchase if he were to sell or lease his capital (including his human capital). He has chosen to remain the owner of these particular assets, but he must forfeit all those assets that are lower on his scale of values, but that might be purchased if he divested himself of the ownership of his present scarce economic resources.

There is only one way in which his legal ownership, and therefore control, of these scarce economic resources would cost him nothing. If he has absolutely no other desires than to be exactly what he is, where he is, controlling just these economic resources and no others. This is the ultimate goal of economic perfection toward which men strive, of course, but it does not describe the conditions of real, acting men. But it is only under this assumption, that a man has no other alternative uses for his capital or the assets that could be gained in voluntary exchange, that zero opportunity costs would prevail. So long as men have unfulfilled desires for additional scarce economic resources, they will bear the burdens of opportunity costs. They must choose one goal or set of goals and not another; they must select the appropriate means of achieving their economic goals; they must exercise responsible choice.

"Every man has his price." Most of us believe this to be valid as a regulatory principle, despite the fact that we know that on some points in time, some men could not be compelled by the whip or induced by the carrot to respond to the desires of other men. Men are always trying to improve the economic conditions. This means that they must bear the costs of change in a world of limited resources. Even a decision to remain inactive is a decision: one forfeits the benefits that change would have brought. In short, there is always a trade-off in economic choosing, even in decisions not to trade at all.

Ownership, a Social Function

Any resource – human, animal, inanimate – which can command a price imposes costs on its owner. Each individual must use the resources under his authority in order to serve others, either through the mechanism of the market or the coercive power of the state. To the extent that the market is allowed to function as the sovereign authority over economic transactions, individual owners must attempt to meet the demands of other possessors of scarce economic resources, as registered on the market in terms of

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discrete prices. Hence, total human autonomy is inconceivable. Those who argue that the market involves anarchy are unaware of how the market operates. Economic actors must meet the demands of the public if they are to survive. The farmer in our original example is required to use his land, tools, brains, and skills more effectively than do his competitors. If he obstinately or ignorantly refuses to do this, he will lose control over his resources. Under the market economy, a man holds his goods as a steward for other men; he cannot hold his goods autonomously. Under the free market, *ownership is a social function.*

The meaning of private property in the market society is radically different from what it is under a system of each household's autarky. Where each household is economically self-sufficient, the privately owned means of production exclusively serve the proprietor. He alone reaps all the benefits derived from their employment. In the market society the proprietors of capital and land can enjoy their property only by employing it for the satisfaction of other people's wants. They must serve the consumers in order to have any advantage from what is their own. The very fact that they own means of production forces them to submit to the wishes of the public. Ownership is an asset only for those who know how to employ it in the best possible way for the benefit of *the consumers. It is a social function.*[12]

Is this a denial of the free ownership of private property? Absolutely not; it is the necessary concomitant of such ownership. It is therefore a denial of the *gratuitous* ownership of property. Nothing is free from costs under a market economy — not lunches, not talents, not even dreams, for dreams must use up that highly valuable and irreplaceable scarce economic resource: *time.*

Opportunity Costs

Men, in their decision to compete for access to some particular resource, bid up its price. By bidding up the price of an economic good, they impose higher and higher costs of ownership on all those who hold legal, exclusive titles to the good. These costs come in the form of opportunity costs. Since the scarce economic resource is now more valuable in the opinion of the public, it commands a higher price, and therefore the value of the resources that the owner could gain access to by selling his title of exclusive control to someone else is continually increased. He pays a price, moment by moment, for his refusal to part with his property; if he retains title to one piece of

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property, he is thereby prevented from gaining access to other goods and services that his property could be exchanged for. If something commands a price, it is not gratuitously possessed. Free ownership may command very heavy costs. It is the right of free, exclusive control over property which makes the economic burden inescapable; the free market imposes responsibility with every grant of economic power.

The farmer who does not wish to sell his land, whether for sentimental reasons, or a fear of change, or a commitment to the ideals of rural life, or just to keep old Charlie Drackett from getting his dirty hands on the bottom forty, is thereby compelled to pay for his use of that land. He has to defend his possession of exclusive control, daily, in the market place. It is not his legal title that is in question; it is his economic ability to defend it against others who think they could use his property in order to better service the needs of the public. He does not have to defend it in the way his great-grandfather did – shooting Indians or revenuers or Hatfields or McCoys – but by using it to satisfy the incessant demands of an unsentimental public. If he fails to do this, he suffers economic losses. He may have to dip into his life savings to keep his farm going. He may have to go deeper into debt. Finally, if he continues to fail to meet the public's demands for more food, cheaper food, better quality food (or even lower quality food, nutritionally, if that is what the public wants), his mortgage will be foreclosed. The bank will sell it, or the tax collector will sell it, to the highest bidder. This highest bidder is a middleman. He is acting on behalf of the public. He thinks he can use the land and other capital assets more efficiently than anyone else can. If he is wrong, the process will start over again. Private property is held in stewardship for the public.

Title to property is not held by "the public." Titles are held by individual owners. But the market combines the myriad of discrete demands of many individuals and imposes costs on the possessors of all desired economic resources. No owner can resist the pressure of market demand without bearing these costs. Day after day, market pressures force all owners to ask themselves, "What's it worth to me to hold onto this?" The public responds, through the market, "You'll have to meet our price if you want to keep it." Day after day, all those who retain free title to a particular piece of property meet this price. They pay in the forfeited opportunities that might

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have been: the vacation, the new car, the shares of IBM, and silence from "the little woman" who wants to sell out. This is the law of survival in the free market. May the best (most efficient) man win.

Ownership Contingent on Right Use

During the English Reformation the problem of the justification of ownership came to a head with the confiscation of the property of the monasteries. "The Reformation theorists," writes Richard Schlatter, "failed to solve their first great problem. They were not able to work out a theory which would justify large-scale confiscation and at the same time mesh with their other ideas about the nature of private ownership and its rights. For a consistent theory they substituted an emotional attack."[13] They attacked clerics for their alleged misuse of wealth. But Sir Thomas More, the great Roman Catholic layman, answered this argument in *A Supplication of Souls*. If this is a valid premise for expropriation, he wrote, then there will be no end of expropriation. The King may use it against the church, but then the people will use it against the merchants (who bought the land from the King). Thus, concludes Schlatter, "The theorists of the Reformation could not answer More's arguments without admitting the principle that all ownership was contingent upon right use. But no property owner was willing to grant that that principle should be enforced by any authority in this world. The theoretical problem was left unsolved."[14]

Economic vs. Legal Control

The solution to this theoretical problem is found in the analysis of the operation of the free market. Yes, ownership does depend, economically, on proper use of resources. The legal title, however, does not rest on economic foundations but on historical or formal legal principles. It is the magnificent fusion of the right of free legal ownership and cost-bearing economic control of resources which the free-market commonwealth provides that overcomes the theoretical dilemma of medieval property theory. Laws against the confiscation of private property insure the smooth operation of the free market, and this in turn produces a system of economic organization which requires each owner of property to assume the costs associated with the control of property. Mises summarizes it quite well:

> Private property is a human device. It is not sacred. It came into existence in early ages of history,

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when people with their own power and by their own authority appropriated to themselves what had previously not been anybody's property. Again and again proprietors were robbed of their property by expropriation. This history of private property can be traced back to a point at which it originated out of acts which were certainly not legal. Virtually every owner is the direct or indirect legal successor of people who acquired ownership either by arbitrary appropriation of ownerless things or by violent spoliation of their predecessor.

However, the fact that legal formalism can trace back every title either to arbitrary appropriation or to violent expropriation has no significance whatever for the conditions of a market society. Ownership in the market economy is no longer linked up with the remote origin of private property. Those events in a far-distant past, hidden in the darkness of primitive mankind's history, are no longer of any concern for our day. For in an unhampered market society the consumers daily decide anew who should own and how much he should own. The consumers allot control of the means of production to those who know how to use them best for the satisfaction of the most urgent wants of the consumers. Only in a legal and formalistic sense can the owners be considered the successors of appropriators and expropriators. In fact, they are mandataries of the consumers, bound by the operation of the market to serve the consumers best. Under capitalism, private property is the consummation of the self-determination of the consumers.[15]

The confusion in men's minds between the concept of free legal title and gratuitous ownership has led to numerous injustices in political and economic affairs. Mistakes in analysis at this point too often lead to cries of political intervention to right some supposed wrong. People want the state to enforce false analyses that seem, in the short run, to benefit some special-interest group.

Some men believe that free ownership is gratuitous, and that the deviation from such a hypothetical universe is the result of "exploitation." They do not comprehend that they must defend their ownership in the market, satisfying the demands of the public efficiently. An example of this kind of erroneous thinking can be found in the case of American farmers during the great depression of the 1930's. It was not uncommon for farmers to face the foreclosure of their mortgages by the local bank, or else by the solvent bank which had acquired the assets of the bankrupt rural bank. (Over 9,000 banks suspended payments in the years 1930-33, *not* counting banks that merged with others and those closed temporarily by the states or the Federal government during

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"bank holidays."[16]) Sometimes tax foreclosures would occur. In any case, local farmers would occasionally attend the auction, and a group of them would surround or threaten potential bidders, especially if they were outsiders to the community. Violence, or the threat of violence, was used directly to reduce the price of the bids, thus lowering the particular farmer's costs in regaining title to his farm. The true costs of operating the farm were therefore artificially reduced, thereby lowering the owner's burden of responsibility to the public, as registered on the open market.

Agricultural Legislation

This, however, was too crude and direct a form of violence to be used often, even when local law enforcement authorities permitted it. Violence could be applied far more effectively through state legislatures and the United States Congress. In 1934 three acts were passed by the Federal government, adding even further intervention into an already controlled farm market (e.g., the Farm Credit Act of 1933) : the Farm Mortgage Refinancing Act, involving Federally insured loans; the Farm Mortgage Foreclosure Act, extending the authority to the Land Bank Commissioner to enable him to make loans to farmers, allowing them to redeem their farm properties prior to foreclosure; the Frazier-Lemke Bankruptcy Act, allowing the farmer who had lost his farm through foreclosure to demand a "fair and reasonable" appraisal and to repurchase his property over a period of six years at one per cent interest (interest rates were fairly low in the free market in these years, however). This last act was declared unconstitutional in 1935, but a similar act, shortening the repurchase time to three years, was upheld in 1936. In short, the coercive monopoly of legitimate power which belongs to civil government was applied in order to thwart the operation of the free market. Men successfully reduced the costs of ownership through collective violence or the threat of violence. Harold Underwood Faulkner, no supporter of the free market, has commented on the implications of these early policies of New Deal agriculture:

> A survey of the farm legislation passed during the five years 1933-1938 make clear certain facts. First of all, "economic planning" was carried further with respect to argiculture than to any other economic interest. The government took upon itself the responsibility of attempting to determine both production and prices as well as maintaining soil resources and handling most of the

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credit resources of the farmers. In the second place, this program was carried out at the expense of the consumer. Agriculture was to be a favored industry, with the taxpayer and consumer paying the bill. This, of course, did not disturb the farmer; he insisted that agriculture was now merely receiving protection as industry had long received it through the protective tariff. Finally, it should be noted that the government entered so definitely into the program of financing agriculture that by 1937 its agencies held about half of the long-term agricultural paper of the country. This was indeed a big step from the *laissez-faire* policies of a quarter century earlier.[17]

Exclusive Right of Access

Not only do men erroneously believe that free title to a piece of property ought to bring with it gratuitous ownership, but they also err in believing that the right to bid on another's property is, in and of itself, an exclusive possession of one bidder or one group of bidders. Such exclusive access involves a legal title, by definition. In other words, they think that their legal right to increase another's opportunity cost for retaining possession of his property is, in effect, their own gratuitously held prerogative – a titled right to exclusive control of one segment of the market. Trade unions, for example, call in the coercive power of the Federal government (through the Wagner Act and the National Labor Relations Board) to defend their exclusive right to bid on a particular labor contract, utterly free from the outside competition from other workers who might be willing to work for less money. The members of such organizations assume that they have a legitimate right to hold a job (or gain access to one through the union) apart from the daily competition necessary to defend their presence in that particular occupation. They call in the state to create by fiat a title to that occupation by arbitrarily excluding others from bidding.

– to a Given Job

What members of a union do have title to is their ability to work. But members of such coercive structures think that because they have legitimate title to their labor they also should have legal title to an opportunity to exercise their talents in some specific occupation, apart from outside competition, thus forcing the employer's costs of operation higher than a free labor market would have permitted. They exclude other citizens who equally have title to their own labor, but who are not permitted to bid down the cost of hiring labor. By granting, by fiat intervention, ti-

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tles of exclusive bidding rights to one group of laborers, the state effectively robs other men of their right to bid, and therefore of their right to exercise their personal talents.

By this confusion of the right to bid in the market and a title of exclusive access to that segment of the market, the state increases the employer's costs of operation, reduces the union member's opportunity costs (it does not cost him as much to retain his job, for outside competition for that job is eliminated, by state fiat), and it deprives nonunion laborers of their right to exercise their particular callings before God and society. A man's legitimate right to bargain for his job, continuously (or whenever his labor contract is subject to renewal), is transformed by state fiat and legalized coercion into his right to avoid continuous bargaining. A three-way bargaining structure – employer, union member, and nonunion member – becomes, through the threat of state violence, a two-way bargaining structure, as the nonunion member is driven to accept other employment which he would not have chosen voluntarily. An exclusive title – a property right, in other words – is created by state fiat, where only a right to bargain in an open market had existed previously.

– to a Given Market Area

Trade union members are not alone in this confusion, unfortunately. Many, many businessmen involve themselves in precisely the same error. They use the interference of state violence to keep outsiders away from the market place. A three-way structure should exist: the consumer, the American producer, and the foreign producer. Instead, the American businessman seeks to make the structure a two-way arrangement: the consumer and only the American producer. Like the labor union member, he seeks to transform a right to bid in the market into an exclusive title of entry into the market. The usual means for this kind of operation is the tariff or the import quota. In principle it is identical to the activity of the state-supported trade union. Ironically, many businessmen who derive great personal satisfaction from castigating the "immoral" trade unions involve themselves in the same "immorality." The game is the same; state "protection" from outside interference – the exclusiveness of a legal title to private property. Instead of a legal title to dispose of their assets and skills as they see fit, in open competition, subject to the imposition of the burdens of the responsibilities of ownership, businessmen want title

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to an exclusive right to dispose of their assets, apart from competition, apart from the full burdens (costs) of responsible ownership. Only the intervention of the state can grant such an escape from responsibility, so they call for the intervention of the state. Men simply like to enjoy the fruits of ownership apart from the responsibilities of ownership. They give up some of their freedom (or their neighbor's freedom) in order to escape from responsibility. They call for the creation of legal titles where none could exist on a free market.

Conclusion

On the one hand, the owner of an exclusive title – a property right – cannot escape the costs of ownership and the concomitant obligation to act as a steward of his goods for the public's benefit. He cannot escape so long as political intervention into the market does not occur. The fruits of ownership are not separated from the burdens of ownership. On the other hand, those who seek to make a bargain cannot, apart from state coercion or private violence, transform the right to dispose of one's own property (talents) into an exclusive title to dispose of that property on a specific market apart from entry by other property owners who wish to bargain with their property. Titles of ownership refer to the control of property and skills by the owner; they do not refer to reciprocal relationships of exchange, where two owners seek to dispose of their property in a mutually acceptable manner. In fact, if exclusive titles are granted respecting the reciprocal human relationships, the rights of control over one's own assets are thereby diminished. The title to property, which involves the right of voluntary disposal of that property, is compromised when the state interferes in the market in which men seek to dispose of their property. By granting titles of exclusive access to certain markets, the state thereby revokes some of the rights of ownership. The rights of ownership involve both the right to bid and the right to be bid against. Compromise either of the last two rights, and you have compromised the original rights of ownership.

The *right to be bid against* is the provision of the legal structure which allows individuals in the marketplace to have the costs of ownership imposed on themselves and all other owners. Each time any group gets the state to protect it against the economic bidding of the public, it thereby reduces the efficiency of the market as well as the members' own responsibility to bear the full costs of ownership. The overall

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wealth and overall freedom of the community are simultaneously reduced, because without efficiency, wealth is reduced, and without responsibility, freedom is reduced. If men would remain free, they must demand that they and their neighbors retain the *right of responsibility*. They must resist the attempts of men who would seek to escape both freedom and responsibility by lowering their competition from other participants in the market. Ownership is free, but not cheap. The same is true of freedom.

• FOOTNOTES •

1 Ludwig von Mises, *Human Action* (3rd ed.; Chicago: Regnery, 1966), pp. 311-12.

2 Cf. Robert A. Nisbet, *Social Change and History* (New York: Oxford University Press, 1969), ch. 4; Louis I. Bredvold, *The Brave New World of the Enlightenment* (Ann Arbor: University of Michigan Press, 1961).

3 The concept of the public schools as America's only established church is brought forcefully in Sidney E. Mead's *The Lively Experiment* (New York: Harper & Row, 1963), ch. 4. Cf. R. J. Rushdoony, *The Messianic Character of American Education* (Nutley, New Jersey: Craig Press, 1963).

4 The separation of church and state, it must be stressed, came to the American colonies quite early; Rhode Island accepted the principle from the beginning. But orthodox Connecticut was forced to adopt it as a result of the religious tumult caused by the Great Awakening of the mid-eighteenth century; it was brought into existence by Christians, not secularists or the tiny handful of Unitarians and Deists: Richard L. Bushman, *From Puritan to Yankee* (Cambridge, Mass.: Harvard University Press, 1967), ch. 13.

5 Paul Craig Roberts, "The Polycentric Soviet Economy" *The Journal of Law and Economics*, XII (April, 1969): Herbert S. Levine "The Centralized Planning of Supply in Soviet Industry," (1959), in Wayne A. Leeman (ed.), *Capitalism, Market Socialism, and Central Planning* (Boston: Houghton Mifflin, 1963); Gary North, "The Crisis in Soviet Economic Planning," *Modern Age*, XIV (Winter, 1969-70).

6 Ludwig von Mises, *Bureaucracy* (New Rochelle, New York: Arlington House, [1944] 1969).

7 Gary North, "Statist Bureaucracy in the Modern Economy," THE FREEMAN (Jan., 1970).

8 Murray N. Rothbard, *Man, Economy and State* (Los Angeles: Nash, [1962] 1971), p. 4.

9 R. J. Rushdoony, *The One and the Many* (Nutley, New Jersey: Craig Press, 1971), surveys the history of this vitally important philosophical problem. He argues that modern philosophers prefer to avoid discussing the issue because they have been able to find no secular answer to it.

10 Mises, *Socialism* (New Haven, Conn.: Yale University Press [1922] 1951), pp. 275-76.

11 *Ibid.*, p. 276.

12 Mises, *Human Action*, pp. 683-84.

13 Richard Schlatter, *Private Property: The History of an Idea* (New Brunswick, New Jersey: Rutgers University Press, 1951), p. 81.

14 *Ibid.*, pp. 86-87.

15 Mises, *Human Action*, p. 683.

16 *Historical Statistics of the United States: Colonial Times to 1957* (Washington, D. C.: Bureau of the Census, 1960), p. 636 (explanation of statistics on p. 619).

17 Harold Underwood Faulkner, *American Economic History* (5th ed.; New York: Harper & Bros., 1943), p. 656.

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OFF THE BEATEN TRACK

LEONARD E. READ

I HAVE long been intrigued by the seeming paradox that the more one knows the more he knows he does not know. This is another way of saying that every gain in knowledge increasingly exposes one to the infinite unknown.[1]

Another aspect of this intriguing paradox: as a person grows in knowledge he is exposed to a new set of friends – and almost certainly faces a dwindling number of old friends. There are many ways to lose friends, of course, but what I am suggesting is that a dwindling audience is *not necessarily* a sign of failure; on the contrary, it may signify personal progress. This is the point I would like to explore.

Ortega presents us with the reality of this problem:

So far as ideas are concerned, meditation on any theme, if *positive and honest*, inevitably separates him who does the meditating from the opinion prevailing around him, from that which . . . can be called "public" or "popular" opinion. Every intellectual effort sets us apart from the commonplace, and leads us by hidden and difficult paths to secluded spots where we find ourselves amid unaccustomed thoughts. These are the results of meditation.[2]

Why dwell on this? A simple reason: if you are on the right track and gaining in knowledge but fail to read these signs aright, you may throw in the sponge simply because listeners are few; you may call it quits just before the dawn. In a word, I hope to

[1] See "*The Wisdom in Knowing I Know Not*," *Notes from FEE*, March, 1971. Copy on request.

[2] *What Is Philosophy?* by Ortega y Gasset (New York: W. W. Norton & Company, Inc., 1960) p. 15.

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present an antidote for discouragement, a way of viewing matters that will help to "keep the chin up." Not only yours, but my own! In the area of our concern, it is easy to mistake success for failure.

Why? Simply because success is often equated with a growing number of adherents, failure with a declining number, as if the quality of ideas and the quantity of better thinkers go hand in hand. We tend to expect that any improvement in ideas will automatically attract a wider audience; whereas, quite the opposite might happen.

Popularity Contests — Not the Path to Truth

My thinking in this matter has been stimulated in part by a slight drop in FEE's mailing list over recent months, while at the same time we are told by others that our publications and seminars are better than ever before – and that we must do something to "reach more people."

Were numbers here and now the sole measure of success, then the recipe would be (1) a point of view consistent with "public" or "popular" opinion; and, (2) charismatic personalities. Examples can be found in the political realm: engaging and energetic copycats of the current consensus putting themselves in the vanguard.

Were ours just a numbers game, then we would attractively proclaim "free enterprise" and loudly decry "socialism." *And let it go at that!* For there are millions paying lip service to freedom and proclaiming opposition to socialism who are anxious to ally themselves with those of similar leanings – so long as the specific aspects of these opposed ways of life are left unexamined. But never, for heaven's sake, go beyond the generalities and attempt a detailed study of these ideologies! To do so assures alienation, a marked dwindling of old friends, perhaps a few new ones.

Our meditations at FEE over the past quarter century have been positive and honest. Even our detractors concede that we have so operated, and with consistency. In the beginning our position was more or less a generalization: in favor of freedom and opposed to socialism and other variants of authoritarianism. But the more we meditated, the more did some commonly accepted practices of "free enterprisers" and "anti-socialists" show up as bearing the seeds of socialism behind the labels. Further, we have never held the results of these meditations to ourselves for fear of giving offense, that is, we have not bowed to expediency.

For instance, some 20 years ago

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we published *The Tariff Idea,* a critique of protectionism, the case for freedom in transactions. The criticisms we received were severe, and several large corporate supporters dropped FEE then and thereafter. Over the years all of our books and each of nearly 3,000 essays have, in one way or another, affronted the mores, gone counter to the current trends and accepted opinions. This is to say, we have upheld the basic principles of voluntary exchange, private ownership, limited government while, at the same time, challenging those flaws of coercive or governmental intervention parading under the name of free enterprise. Such unaccustomed thoughts are not popular!

To Find a Better Way

This is why the serious freedom devotees may not rely on numbers – popular acclaim – as an objective. For the prime requirement of such an objective is to stay on the beaten track, to go along with commonly accepted notions. But must we not abandon the beaten track if we would *find a better one?* To "go along" is to go without prospect of improvement. To play the numbers game is to accept the fallacies that ought to be exposed and displaced.

The soundness of a philosophy cannot be gauged by numbers of followers. In this respect, the philosophy of freedom is similar to religion. True, we can count the financial supporters of the several religions and the church attendees, but these numbers reveal absolutely nothing as to the depth or profundity of religious convictions. Religious faith, so-called, is founded on diverse forces, ranging all the way from fear and superstition to cosmic consciousness. We must note, however, that all of the significant religions have been inspired by some *one* whose purity of thought – meditations, if you will – provided that rich spiritual insight which made possible the awakening of others.

High Mortality of New Ideas

Continuing the analogy, be it noted that each religion was, initially, an affront to "public" and "popular" opinion, a complete break with the mores. Each was born in an environment more or less hostile to its precepts. These initiators of high ethical, moral, and spiritual ideas have, in every instance, presented thoughts unfamiliar to most people at the time.

It is only when we make progress in learning what the ideal is, while standing foursquare therewith in our proclaimed positions, that we aid the cause of freedom. True, we will never fully compre-

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hend the ideal, let alone realize it, but we can everlastingly strive for this purity in thought. Be certain of this: the nearer we come to knowing and upholding the ideal, the greater is the probability that the good society may emerge. Why? Because men can establish the good society only upon what is right and true. Upon that alone, and *nothing* else!

Fungus may be spawned by a muck heap; but the good society is the emergence and flowering of the best there is in thoughtful meditation. The best flows always from one – the one who comes nearest to being the perfect exemplar. Viewed in this manner, the so-called problems of society break down to a level a person might comprehend. One's duty is not to fall in step with present imperfections but, rather, to strive for his own perfection. Upon whom, then, does the solution depend? Upon the world's most important person: YOU!

IDEAS ON LIBERTY

The Personal Practice of Freedom

FREEDOM RESTS, and always will, on individual responsibility, individual integrity, individual effort, individual courage, and individual religious faith. It does not rest in Washington. It rests with you and me.

Two things you and I can do, and two only. First, we can practice what we profess. Second, we can each preach, from our own personal pulpit, the principles we practice, whether that pulpit looks out upon a continent, a country town, or a single cottage.

As we thus prove our faith by our works – as we accept with diligence and devotion the responsibility for areas within our reach – as we inspire those about us and send them in turn to inspire others – we shall find that we are making an ever-increasing contribution to the accomplishment of our century's most challenging job.

Over and above all else we shall find – you and I, individually – that ours have become unconquerable souls.

ED LIPSCOMB

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CLARENCE B. CARSON

THE FOUNDING OF THE AMERICAN REPUBLIC

12

The Scourge of Inflation

A theft of greater magnitude and still more ruinous, is the making of paper money; it is greater because in this money there is absolutely no real value; it is more ruinous, because, by its gradual depreciation during all the time of its existence, it produces the effect which would be produced by an infinity of successive deteriorations of the coins. All these iniquities are founded on the false idea that money is but a sign.

— COUNT DESTUTT TRACY

* * * * * *

MEN AT EASE and in comfortable circumstances must find it difficult to comprehend the sufferings of the Patriot armies during the War for Independence. These armies had to suffer, in addition to those tribulations incident to war, from lack of clothing, blankets, sufficient food, drink, transport, and many other of the necessities of life. Yet it is the judgment of the generality of historians that most of this deprivation was unnecessary and unwarranted. There was food aplenty in the states, and there was at least the potentiality of enough clothing. It may be added that there were enough men of the right age to have constituted overwhelming forces against

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those the British actually sent to America, and there was a potentiality for manufacturing adequate munitions for the war. (For example: "In 1775 the Union produced 30,000 tons of crude iron — one seventh of the world's total output.")[1] It is quite probable that the war could have been brought to a successful conclusion long before it was had these resources been devoted to the effort in sufficient amounts. They were not.

The main reason why men and materials were not brought to focus adequately on the war effort was the method used to finance the war. The successful prosecution of a war — any war — requires that a sufficient amount of energy and resources be diverted from other uses in order to accomplish the end of winning the war. To acquire the necessary goods and services, government enters the market. (This is not to deny that a government may acquire services, and sometimes goods, voluntarily from those who are actuated by principle or other motives. To the extent that this is the case, neither force nor the market may have come into play in the acquisition. But neither the War for Independence, nor any other known to this writer, were fought primarily with such resources.) Government may enter the marketplace in such a way as to take advantage of the services offered in a market, or it may intervene in the market in such ways as to make that instrument virtually useless for its purposes. The market is a place where voluntary exchanges are made, where goods and services are sold to the highest bidder. When government enters the marketplace it becomes a bidder among bidders for the supply of goods and services available. What the government acquires there, others are denied, or vice versa.

Government Takes Goods

Before government can become a bidder in the market it must acquire goods and services, or their equivalent, for making exchanges. This necessity poses what is the most enduring problem of government: the government, as government, is not a producer of goods nor provider of services, and has none of these to offer in exchange. Before it can operate in the market, then, government must acquire these, or their equivalent, from those who own or produce them. In effect, government must take goods and services from those who provide and produce them. For this to be done equitably and justly, experience indicates that this appropriation should be spread over and apportioned among the producing citizenry.

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Money has afforded a means for apportioning taxes and a way for government to enter the marketplace for trading without interfering destructively with the function of the market. In short, money can enable a government to use the marketplace as a major source of goods and services which it needs, particularly in war. For this to happen, however, government must respect the nature and character of money. Money is a medium of exchange, i.e., it is that through which are made exchanges of goods for goods, services for services, or any other combinations of these. What a given unit of money will command in goods and services in the marketplace is a ratio between the quantity of money and quantity of goods and services, as modified by the strength of the desires of all who have any of these in their possession or wish to acquire them. To put the matter concretely, if a bushel of wheat brings one dollar this means that the quantity of money is such, the quantity of wheat is such, the desire for wheat is such, and the desire for money is such, that one dollar is the price that will effect an exchange. If the quantity of money is increased, and all else remains the same, the price of wheat may be expected to rise in proportion to the increase of money. A money tax enables the government to reduce the supply of money available to private bidders, and thus to become an effective bidder for its needs in the market.

Monetary Manipulation

It is theoretically clear, then, what the consequences would be if the government attempted to get its needs by simply increasing the money supply. It would reduce the quantity of goods and services a given unit of money would command. But why could the government not do this as a means of taxation, thus avoiding the onerous necessity of a direct appropriation of money? Of course, it could do this. Thomas Paine declared that this is just what the Congress did during the War for Independence. It would have cost ten or twelve million pounds sterling, he estimated, to have financed the war by ordinary taxation; "and as while this money was issuing, and likewise depreciating down to nothing, there were none, or few valuable taxes paid; consequently the event to the public was the same, whether they sunk ten or twelve millions of expended money, by depreciation, or paid ten or twelve millions by taxation; . . . And therefore . . . [the] debt, has now no existence; it having been paid, by everybody consent-

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ing, to reduce as his own expense, from the value of the bills continually passing among themselves, a sum, equal to nearly what the expense of the war was for five years."[2] Thomas Paine was, as usual, an adept pleader of special causes, but he was no scholar, and certainly not an economic historian. His statement that everybody consented is simply not true, and he ignores both the ruinous train of consequences following upon the inflation and the question of whether or not it was effective in its object of providing for the armed forces.

It is not necessary, however, to explore the theoretical impact of the inflation further; it unfolds in the story of the financing of the war. The Congress and the states did attempt to finance the war effort primarily by the issuance of paper money. Congress issued what is known as Continental currency. The notes did not bear interest, as such currency sometimes did, but they were supposed to be redeemed by the states at a later date. Just how much was issued from the first issue in 1775 until an entirely new currency was issued in 1780 is in doubt. The estimates range from $191,552,-380[3] to $242,100,176[4]. It is commonly believed today to have been over $200 million[5]. Even if an exact figure could be agreed upon, however, we would still not know how much of the currency was in circulation, for it was extensively counterfeited. There were domestic counterfeiters; and the British government, as a matter of policy, attempted to destroy the currency by introducing counterfeit money.[6]

All accounts agree, however, that Congress issued more and more of the currency over the years through 1779. A recent estimate of the sums issued goes as follows:[7]

1775	$ 6,000,000
1776	19,000,000
1777	13,000,000
1778	63,500,300
1779	90,052,380

This process of issuing more and more set in early. The initial issue was to have been for $2 million, but before it had been accomplished Congress authorized another $1 million.[8] Before the end of the year $3 million more was issued.[9] This despite the fact that Congress had intended only one issue at the beginning. And, there were those who attempted to prevent the escalation. Benjamin Franklin said: "After the first emission I proposed that we should stop, strike no more, but borrow on interest those we had issued. This was not then approved of, and more bills were issued."[10]

The process of issuing more and

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more of the currency and raising the amounts of single issues is easily explained. Once the money had been issued, it fell into private hands in return for goods and services. The government no longer had access to the currency. Congress then made further issues in order to have money to spend. The more it issued, the less the money was worth; larger and larger issues were made in the attempt to get the results that could be obtained by smaller issues earlier. Reliance on paper money has – for these reasons, and more complex ones where there are combinations of taxation and fiat money financing – a pyramiding effect.

Money vs. Currency

Why did the government not recover the money in some way? In general, this could have been done either by taxation or by borrowing, or some combination of these methods. The government did not retrieve the money for about the same reason it was issued in the first place, namely, to avoid taxes and because the credit of the Congress was not good. Before examining into the question of taxation and borrowing, however, one justification offered for issuing paper money needs to be explored.

Curtis Nettels, a present-day historian, describes the justification for a Continental currency this way: "The Union as a whole suffered from an acute shortage of hard money; all the coin in circulation in 1775 would not have paid a year's expenses of the Continental Army." Some men at the time of the revolution held that a certain indeterminate amount of money is necessary to facilitate commerce. They thought that money could be issued up to the point of meeting the need without depreciating, but that once the point of sufficiency had been passed, the currency would begin to decline in value. It may not be an adequate reply to Professor Nettels to say that Congress could have issued $10 trillion in paper money and it would not have been enough to pay "a year's expenses of the Continental Army," but the statement is correct. The only way I can make sense of the earlier idea is to suppose they believed that price is something inhering in the item offered for sale rather than being determined by supply and demand. Some clarity may be brought to the subject by distinguishing between money and currency. Money may be anything which serves as a medium through which some transactions are made. Currency is that which serves generally in an area to effect transactions. All currency

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is money, but not all money is currency. Money becomes currency in one of two ways: either because it is wanted by traders and is in sufficient supply to effect transactions, or because it has been made legal tender by some government. The only purpose for making a money legal tender is to force it into currency when it would not be the currency on its own merits. The very fact that Congress relied upon tender laws and used even harsher measures to give their bills currency should dispose of the argument that they were issued because of a shortage of hard money.

The real reason for the Continental currency issues, then, was that Congress and the states were attempting to finance the war without levying taxes directly. They are entitled to some sympathy for the difficult situation in which they were trying to function, but no amount of sympathy alters the consequences of actions. Congress had no authority to levy taxes. With equal validity, it can be said that Congress had no authority to issue money. The truth of the matter is that Congress had as little and as much power as it could manage to exercise during the period under consideration. It had no constitution, hence, no constitutional limits on what it could do. Its members, however, were delegates from the states. It may well be that had Congress attempted to levy taxes it would have been repudiated by the states or by the people. At any rate, Congress did not even attempt to levy taxes. It was not that the members could see no need for taxes. Congress declared, on many occasions, that the states should levy taxes. Elaborate schedules were devised for apportioning the costs of the war among the states. Solemn proclamations were issued urging the states to tax. For example, in 1777 Congress admonished the states to "raise by taxation in the course of the ensuing year, and remit to the treasury such sums of money as they think will be most proper in the present situation of the inhabitants. . . ."[11]

States Under Political Pressure

All this was of little avail. The states were not much more inclined to levy taxes to pay for the war than Congress was. One historian sums the matter up in this way: "Before 1780, most of the states shrank from collecting taxes for any purpose. Massachusetts did not vote any levy in 1776, and in 1778 resorted to a lottery to raise $2,000,000. Virginia waited until 1781 before making a serious attempt to obtain revenue from taxes. The performances of

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the other states were not much better."[12] There are several reasons for this state of affairs. For one, the hold of the state governments over the citizenry was sometimes precarious, particularly in states where Loyalists were numerous. Extensive taxation might have jeopardized the tenuous attachment which many had for their state governments. For another, the objection to taxation without representation by the British must have turned into a more general objection to taxation. This appears from the difficulty of collecting the taxes that were levied. "In Pennsylvania, for example, from 1778 to 1781, less than half the taxes assessed were collected; it was not uncommon for citizens to slam the door in the tax-collector's face – and get away with it."[13] But, above all, legislators were currying favor with their constituents by avoiding taxation. Sumner said that the "governors of the States could not urge taxation and zeal upon the legislatures without a painful and unpopular contest. The members of a legislature who laid taxes must expect to return to their constituents to face grumbling and popular dissatisfaction."[14]

Instead of taxing to retire the Continental currency, the states issued large amounts of paper money themselves. "The emission of all the states exceeded $200,000,000. Virginia led the way, followed by North Carolina; then came South Carolina. Georgia, Delaware, and New Jersey exercised the most restraint."[15]

A minor stream that added to this flood of paper currency issued by Congress and the states was provided by domestic loans. Loan office certificates and certificates of indebtedness were issued to the extent of $20 million.[16] The loan office certificates circulated generally, one writer notes, "effecting essentially the same consequences as would have attended the issue of an equal quantity of paper money."[17]

Paper Declared Legal Tender

Successive interventions were made in the market, interventions which followed logically from the use of fiat money to finance the war. The first of these interventions was to make the paper legal tender so that it would circulate as money. The specific actions to do this were by the states. For example, the Council of Safety of Pennsylvania declared in 1776 that anyone who refused to accept the Continental currency would forfeit whatever he refused to sell and be subject to a penalty besides – all this for a first offense –, and be banished from the state for a

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second offense.[18] In the same year, Rhode Island made both state and Continental notes legal tender. In addition to providing penalties for not accepting this paper, that state prohibited the buying of specie with paper or differentiating in prices of goods when offered gold or silver instead of paper.[19]

Sometimes even more drastic measures were authorized to make people take the paper money. When he was in command of forces at Philadelphia, General Putnam made this announcement: "In future, should any of the inhabitants be so lost to public virtue and the welfare of their country, as to presume to refuse the currency of the American states in payment for any commodities they may have for sale, the goods shall be forfeited, and the person or persons so refusing, committed to close confinement."[20] In a similar fashion, George Washington was authorized to take goods from those who refused the Continental currency and to arrest and confine them.[21]

Rising Prices — and Controls

With such Draconian measures to support it, the Continental paper money did circulate. But the more of it that was issued, the more it depreciated. The most noticeable effect of this to the public was a general rise in prices. (Prices of particular goods and services rise and fall as demand and supply fluctuate even if the amount of money in circulation remains stable. And, given blockades and the kinds of demands incident to war, some prices would have risen inevitably during these years. However, the price increases were not only general but some of them are rises in Continental currency in relation to what they could be bought for in specie, which indicates that it was the currency which occasioned some of the increases.) Some of the state governments intervened in the market further by attempting to fix prices. As frequently happens, the legislators sought to control the effect – the rise in prices – rather than the cause – the increase in the money supply. Congress recommended that regional conventions be held to set prices for particular areas. The New England and Middle states held such conventions, but the Southern states south of Maryland steered clear of price controls. After a convention had agreed upon the general features of prices, it was up to the individual states to enforce the tariffs. The following is a description of penalties adopted by Rhode Island in 1777:

The penalty of demanding more than the tariff price was set at the

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value of the article,— half to the State, and half to the informer. Any one who refused for his commodities the tariff price, and afterward sold them for any other goods, was to forfeit the value thereof, half to the State, and half to the informer. If complaint was made that articles necessary for the army or navy were withheld by monopolizers, the State officers and Judges or any two Justices of the Peace might issue a warrant to impress and seize the same, breaking open buildings. The goods were to be appraised by two indifferent men at prices not to exceed those of the tariff. Anybody who contracted to receive for labour or goods more than the tariff rates was to be counted an enemy of the country, and fined twenty shillings for every article sold of the price of twenty shillings or under, and a sum equal to the value of the article, if it was worth more than that.[22]

The price controls, where they were at all effective, resulted in shortages. John Eliot wrote from Boston in June of 1777: "We are all starving here, since this plaguy addition to the regulating bill. People will not bring in provision, and we cannot procure the common necessaries of life. What we shall do I know not."[23] What they did, of course, is what people ever do: evade the regulations, barter, blackmarket, produce a money that will purchase goods, and find a variety of means to perpetuate the market, however inadequate they are compared to the opportunities in a free market.

Army Requisitions

By 1778, the armed forces were finding it increasingly difficult to acquire goods with paper money. "Though paper money was taken, with more or less reluctance, in return for most things, some services were rendered only upon promises of receiving specie."[24] George Washington wrote in 1779 that "a wagon load of money will scarcely purchase a wagon load of provisions."[25] The country was in the grip of a runaway inflation. Every man of intelligence knew that the root cause was the increase of the money supply (much as this is known in our day), yet there was not the will to deal effectively with it.

To get supplies and transport, the army had to resort to its equivalent of barter, i.e., impressment and requisition from the surrounding populace. There had been some impressment, particularly of transport, from the beginning of the war; but by the time of the Yorktown campaign in 1781 this method seems to have been relied upon almost exclusively.[26] There was more and more of this done before 1781, however. By the latter part of 1779, supplies in general were being

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requisitioned. On December 11, 1779, Congress "voted requisitions on the States for specific supplies of flour and Indian corn. December 14, they established a system of requisitions and contributions of this kind, Maryland alone voting no. February 25, 1780, an elaborate apportionment of requisitions for such supplies was made. . . . Each State was called upon for the staples which it produced."[27]

The most drastic impact of inflation is that it tends to disintegrate and divide society, to turn employee against employer, the governed against the governors, the creditor against the debtor, the producer against the consumer, the populace against speculators, and so forth. Inflation tends to reverse the rules of economic behavior: where once it was prudent to save money, it becomes expedient to spend it; where once it was good business to supply consumers with durable goods, it becomes profitable to delay the sale; where once creditors were those who were better off, it now becomes good business to borrow money and repay it with a currency that is less valuable than when the loan was made. The solid citizen who is cautious and prudent can do well over the years by hard work, careful investments, and saving, when the money supply is stable. His prosperity may well be described as virtue rewarded. Inflation sets the stage for wealth to be gained in a different fashion: by borrowing, by holding on to goods for the inevitable higher prices, and by attending closely to the swift changes in the value of the money. Such means of gaining riches are widely resented, particularly during a war.

Unhappy Consequences of Rampant Inflation

Men contemporary with events frequently described the consequences of the inflation as well as could be done. Josiah Quincy wrote these words to General Washington:

> I am firmly of the opinion, and think it entirely defensible, that there never was a paper pound, a paper dollar, or a paper promise of any kind, that ever yet obtained a general currency, but by force or fraud, generally by both. That the army has been grossly cheated; that creditors have been infamously defrauded; that the widows and fatherless have been oppressively wronged and beggared; that the gray hairs of the aged and the innocent, for want of their just dues have gone down with sorrow to their graves, in consequence of our disgraceful depreciated paper currency. . . .[28]

By 1778, John Adams could say that "every man who had money

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due to him at the commencement of this war, has been already taxed three-fourth parts of that money. . . . And every man who owed money at the beginning of the war, has put three-fourth parts of it in his pockets as clear gain. The war, therefore, is immoderately gainful to some, and ruinous to others."[29]

A historian who lived through that period has written:

> The aged who had retired from the scenes of active business, to enjoy the fruits of their industry, found their substance melting away to a mere pittance, insufficient for their support. The widow who lived comfortably on the bequests of a deceased husband, experienced a frustration of all his well-meant tenderness. The laws of the country interposed, and compelled her to receive a shilling, where a pound was her due. The blooming virgin who had grown up with an unquestionable title to a liberal patrimony, was legally stripped of every thing but her personal charms and virtues. The hapless orphan, instead of receiving from the hands of an executor, a competency to set out in business, was obliged to give a final discharge on the payment of 6d. in the pound. In many instances, the earnings of a long life of care and diligence were, in the space of a few years, reduced to a trifling sum. . . .
>
> That the helpless part of the community were legislatively deprived of their property, was among the lesser evils which resulted from the legal tender of the depreciated bills of credit. The iniquity of the laws estranged the minds of many of the citizens from the habits and love of justice. The nature of obligations was so far changed, that he was reckoned the honest man, who from principle delayed to pay his debts. The mounds which government had erected, to secure the observance of honesty in the commercial intercourse of man with man, were broken down. Truth, honor, and justice were swept away by the overflowing deluge of legal iniquity. . . .[30]

Decay of Public Virtue

George Washington wrote: "Speculation, peculation, engrossing, forestalling, with all concomitants, afford too many melancholy proofs of the decay of public virtue. . . ." And a writer to a New Jersey paper assessed the blame for this: "I do not say that the abundance of money is the only cause of the decay of virtue or increase of vice, but I say it is a very principal cause, it operates more this way than any other, yea, than all other causes put together."[31]

The inflation contributed much to the loss of confidence in the Congress, the state governments, and the very cause they were committed to at the time. The idea was advanced, when the first issues of paper money were made, that

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its becoming currency would help to tie people to the cause of independence. Since the fate of the money – its eventual redemption – would depend upon the success of the revolt, those who came into possession of it would be committed to victory. So it might have been, I suppose, if the Congress had been content with one or two issues, if the states had refrained from issues, and if the governments had then turned to direct taxation. But the effect of issuing more and more was not only to reduce the value of the money but also to undermine confidence in the governments which issued it.

In fact, people began to suspect rather quickly that Congress would eventually repudiate its paper. To counter this fear, time and time again Congress reiterated the determination to redeem

The Function of Price

THE PRICE SYSTEM is the control board, the regulator, the thermostat – as it has been variously put – by which economic conduct is determined in a private-enterprise economy.

The guidance provided by prices has two main aspects. In the first place, by setting up judgments as to the significance of each factor the price system calls forth and allocates the available productive resources. Under the influence of price each factor flows into the channel which – according to the market's evaluation – promises the greatest result. In the second place, through the same market appraisal that directs the utilization of productive factors, the price mechanism awards shares in output to those who furnish personal services of various kinds, to those who – by accumulating and investing – provide the tools, and to all others who make contributions in the opinion of the market. Moreover, prices chart the course of the consumer as he utilizes the general claim to output which has been awarded to him.

From *Shirtsleeve Economics: A Commonsense Survey* by William A. Paton

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it and denounced those who said that it would be otherwise. In 1778, Congress adopted the following resolution: "Whereas a report hath circulated in divers parts of America, that Congress would not redeem the bills of credit issued by them to defray the expenses of the war, but would suffer them to sink in the hands of the holder, whereby the value of the said bills hath, in the opinion of many of the good people of these States, depreciated; and lest the silence of Congress might give strength to the said report; resolved that the said report is false and derogatory to the honor of Congress."[32] One writer notes that "as paper money depreciated more and more, the pledges of Congress in respect to its redemption were more frequent and intense in form of expression."[33]

They Tried to Stop

Congress resolved in September 1779 to issue paper money only to the total of $200 million. "Upon this mountain of paper," a modern historian has written, "Congress resolved to make its final stand. . . . But . . . the defiant proclamation of September 1779 proved the signal for another sharp selling wave in Continental money. By January 1780, the army was paying for supplies twice what it had paid in September 1779; and by March 1780, prices had risen four times above the level of September 1779."[34]

At that point, Congress began the outright repudiation of its paper, though the culmination was to come later. In March of 1780, Congress devalued the currency by proclaiming that it should now trade at forty to one of gold or silver. To finance this exchange, new paper money was to be issued to be redeemed by the states by taxation. An elaborate plan was contrived for the retiring of the old currency and replacing it with the new. The plan did not work. There was no reason why it should. If the new money was more valuable than the old, it would not circulate, according to Gresham's Law, assuming the old money was still legal tender. In fact, the new money quickly fell to the same value as the old,[35] and the whole became virtually worthless by 1781. In March of 1781, Congress abandoned the acceptance of its own paper money as legal tender. It was now to be accepted only on a sliding scale that was supposed to represent its depreciation. Thereafter, it depreciated so rapidly that it shortly ceased to circulate at all.[36] Specie came out of hiding and replaced paper money as the currency of the land.

All these untoward events might

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be accepted as the cost of the war, but only if the currency had enabled the Congress to bring the resources of the country to bear on the war effort. That, however, was emphatically not the case. On the contrary, the paper money plus the absence of significant taxation tended to disperse the resources of the country and the energies of the people. Congress and the states were continually short of money, whereas the populace had an abundance. In consequence, the production, transport, trading, and provision of goods and services were concentrated on the civilian population, and the armed forces received short shrift.

Suppliers Refuse to Cooperate

In the later stages of the war, as already noted, the army had to abandon the use of the paper money substantially and turn to direct methods to get goods and services. This was not only an inconvenient and inefficient method of gathering material but also made people resent the army. For example, here are reports of the situation in Virginia in 1781 – at a time when a major British army was concentrated there and Washington was about to win his greatest victory. An agent sent to impress transport reported: "I have been much perplexed, for after having impressed them, the owners of some, by themselves or others, have taken, in the nighttime, a wheel or something to render them useless; and I don't recollect any law to punish them, if it could be proved." The Quartermaster wrote to the war office: "Let me entreat, sir, that something may be done to draw the people with their means of transportation into the service willingly. I find them so opposed to every measure that is oppressive that it is almost impossible to effect anything of consequence that way. Many of the teamsters upon the late occasion have deserted with their wagons after throwing their loads out at improper places. . . ."[37]

Nor were taxes in kind a way to get goods where they were wanted. General Washington wrote to the President of Pennsylvania in 1782: "A great proportion of the specific articles have been wasted after the people have furnished them, and the transportation alone of what has reached the army has in numberless instances cost more than the value of the articles themselves."[38] It is not difficult to explain why this was so. The commodities had been taken without reference to a particular need, had been stored where no army might appear, except by accident, and were often spoiled when they were wanted. By contrast with this poor

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form of barter, the market is an efficient and felicitous device when acceptable money is in circulation; the market tends to make the goods available where and when they are wanted, and money is flexible: it can call forth a variety of goods.

The American cause was not lost as a result of the inflation. It was won despite the inflation. But victory was almost certainly delayed for several years; much suffering resulted; and the people's confidence had been sorely tried. Indeed, we have not finished yet in this work with the consequences of the inflation, for they followed into the Confederation period. But the lessons of the experience were not lost on the leaders of that generation. In time, they were used to try to prevent a recurrence of the mistakes. Unfortunately, we cannot report that these lessons are still remembered to the seventh generation.

• FOOTNOTES •

1 Curtis Nettels, *The Emergence of a National Economy* (New York: Holt, Rinehart and Winston, 1962), p. 42.
2 Quoted in Albert S. Bolles, *The Financial History of the United States*, I (New York: D. Appleton, 1896, 4th ed.), p. 208.
3 See Nettels, *op. cit.*, p. 24.
4 See William G. Sumner, *The Financier and the Finances of the American Revolution*, I (New York: Dodd, Mead, and Co., 1891), p. 98. Sumner indicates that one estimate runs well over $300 millions, but that it includes reissues.
5 See John R. Alden, *A History of the American Revolution* (New York: Alfred A. Knopf, 1969), p. 255.
6 See Bolles, *op. cit.*, pp. 150-57.
7 Nettels, *op. cit.*, p. 24.
8 Bolles, *op. cit.*, p. 39.
9 *Ibid.*, p. 43.
10 *Ibid.*, p. 39.
11 *Ibid.*, p. 193.
12 Nettels, *op. cit.*, p. 24.
13 John C. Miller, *Triumph of Freedom* (Boston: Little, Brown and Co., 1948), p. 458.
14 Sumner, *op. cit.*, p. 274.
15 Nettles, *op. cit.*, p. 25.
16 Samuel E. Morison, *The Oxford History of the United States* (New York: Oxford University Press, 1965), p. 230.
17 Bolles, *op. cit.*, p. 260.
18 *Ibid.*, pp. 121-22.
19 Sumner, *op. cit.*, pp. 46-47.
20 Bolles, *op. cit.*, p. 119.
21 *Ibid.*, p. 121.
22 Sumner, *op. cit.*, pp. 56-57.
23 *Ibid.*, p. 61.
24 Bolles, *op. cit.*, p. 68.
25 *Ibid.*, p. 132.
26 See Sumner, *op. cit.*, pp. 142-52.
27 *Ibid.*, p. 239.
28 Bolles, *op. cit.*, p. 139.
29 *Ibid.*, p. 128.
30 *Ibid.*, pp. 176-78.
31 *Ibid.*, p. 216.
32 *Ibid.*, p. 206.
33 *Ibid.*
34 Miller, *op. cit.*, p. 463.
35 See Sumner, *op. cit.*, p. 86.
36 *Ibid.*, pp. 94-95.
37 *Ibid.*, pp. 152-53.
38 *Ibid.*, p. 243.

Next: The American Triumph.

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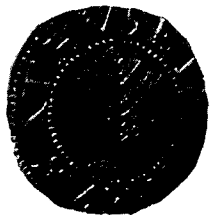
The Pine Tree Shilling



KEVIN CULLINANE

BOSTON was a hustling frontier trading center in 1652 when a young goldsmith, at the urging of hard-pressed merchants and artisans, began minting coins of value they could trust. Only 32 years had passed since the landing of the Mayflower, but already the industrious frontiersmen suffered from having debased European coinage traded off to them before they could learn of the latest currency inflations being worked by the rulers of Europe.

Dutch ducators, guilders, rixdollars and ryals; Portuguese joannes, moidores, reis, and crusadoes; French livres; and Spanish doubloons, rials, dollars and pistoles circulated side by side with English coins in the colony whose merchants were eager to trade with all comers.

But what to do about the fluctuating values of these varied European coins so unpopular in local trade? The answer to their coinage problem came at a meeting in Boston in 1652 when the men of the business community agreed among themselves to purchase, use, and mutually honor coins which would be produced by a local goldsmith. Accordingly the colony's General Court granted a franchise to Capt. John Hull and his partner, Robert Sanderson, to mint twelvepenny, sixpenny and threepenny coins. The early Puritans were ready to turn to the marketplace for their money, sturdily ignoring the prohibitions of their English rulers.

The twelvepenny coin became the famous Pine Tree Shilling. After several modifications it was stamped with "Masathusets" and a pine tree on one side, and "1652" and "New England" on the other.

Today the coin is little mentioned in books, articles or pamphlets dealing with coinage and

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monetary problems and that's too bad, for of all the marketplace coins produced in America, the Pine Tree Shilling was the first, and one which adhered most closely to the principles of coinage integrity. The particularly sound policy of the Pine Tree Shilling minters was their practice of striking coins only when a customer came to their shop, bringing his own silver with him.[1] What a check on inflation!

Most minters – government or private – using their own supply of metal, mint coins in whatever quantity they think expedient, and assign them a value. The metal may or may not be of high value; a dollar coin may be minted of 90¢ worth of silver, for instance, or 10¢ worth of cupro-nickel. The difference between the 10¢ worth of metal and the $1.00 cost to the public is kept by the mint. That difference is called *seigniorage*, implying a lordly right of the ruler to such profit.

This system of minting allows the minter – in most cases the government – to control and manipulate not only the quality of the currency, but also the quantity which will be available to the marketplace. This is why it is said that those who control the currency control the commerce of a country.

Captain Hull and Robert Sanderson did not control the quantity of coinage minted for the marketplace; the marketplace – their customers – controlled the quantity. The two minters limited themselves to guaranteeing the quality of the coins. They produced 100 shillings for every fifteen ounces of silver brought in by their customers; each shilling was guaranteed to contain .15 ounce of silver. In establishing the silver quality they desired, the merchants and the General Court purposely kept the content of silver at three-fourths that of the English shilling. They hoped thereby to keep the coin in the Boston area and to prevent its moving, *a la* Gresham's Law, into European trade.[2]

[1] There are a few other instances of this minting policy in American history. For an interesting account of post-Revolution private minting see, William C. Wooldridge, UNCLE SAM THE MONOPOLY MAN (Arlington House, New Rochell, New York) Chapter 3.

[2] In this the Bostonians were foiled; the coin did move out into international trade. Because the Pine Tree Shilling contained the same quality alloy as the English Shilling, it did not matter to the Europeans that it was a lighter coin. Its value was simply three-fourths the value of the English Shilling – if the English Shilling was valued at twenty cents, the Pine Tree Shilling's value was fifteen cents. As a result of this international acceptance, the General Court attempted to halt its natural outflow by imposing a heavy fine upon anyone caught exporting more than twenty of the coins.

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An Honest Assay

Into Hull's small mint came silver buttons, tankards, goblets, knives, old sword hilts, spoons and European coins to be assayed, melted down and converted into the Pine Tree Shilling. Bullion from Peruvian mines, sometimes taken by privateers from Spanish galleons, found its way to the Boston melting pot as well.

Often the pieces to be melted contained a higher percentage of silver than the finished coins, which were alloyed with copper, so an honest assay was important. To determine the silver content of the variously shaped family pieces brought into their shop, the two men used the technique developed nineteen hundred years earlier by Archimedes: the pieces to be melted were weighed, then submerged in a tub of water which was filled up to an overflow spout so that the object spilled its exact volume of water into a measuring vessel beneath the spout. Given the volume of the object and its weight, the minters computed the percentage of silver it contained.

Their fee was handsome – they kept one out of every twenty shillings minted plus wastage – but their risk was great as well, for though they were providing a much needed service, they were also turning their backs on a restriction imposed by the English government which expressly forbade private coinage in the colonies. Risky it may have been, but the Bostonians were ever an independent lot, and they needed honest coinage in their commerce.

With reliable coins of intrinsic value, hard work by the colonists was more easily rewarded. Merchants and artisans could sell their goods or labors rather than barter, and they could save the coins they received until they wanted to spend them. So useful and popular was the Pine Tree Shilling that the English government chose to ignore its existence rather than attempt to suppress its circulation; an important early step toward independence was taken 129 years before that fateful April morning in Lexington.

After the American Revolution – and both before and after the Constitution – private minters supplied Americans with coins of integrity, and thousands of merchants have minted private tokens to be used in their transactions. But the proud silver coin – the Pine Tree Shilling – was the first. And like so much that emanated from the first generations of New Englanders, it was honest, independent and reliable; an important part of our free-market heritage.

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the case for repeal

DAVID J. MANDEL

It is my argument that an analysis of our experience with zoning laws since the passage of New York City's comprehensive zoning code of 1916, the model for most of the zoning codes of the United States, compels the conclusion that zoning laws do not accomplish what they were supposed to accomplish, that their premises are faulty, that zoning is an irredeemable failure, and therefore, that zoning laws ought to be repealed. The argument is made with special reference to New York City but without limitation to it or to metropolitan areas.

A proposal to repeal any 20th century social regulatory legislation is usually greeted with a sharp intake of breath and then the muttered pejorative, "laissez-faire." Zoning codes, an expression of our desire to act rationally and to use the tools of modern science to respond to human needs, have until quite recently been generally regarded as immune from fundamental attack. In the last few years even the most passionate admirers of the idea of zoning have noticed that zoning laws are not entirely benign. The time is ripe to consider afresh the premises of zoning and its effects.

A modern comprehensive zoning code draws a map dividing the area into separate use zones, commercial, residential and industrial, usually further broken down into subzones. (The latest New York City zoning code, 1960, establishes 41 types of commercial zones, 12 types of industrial zones, and 13 types of residential zones.) Besides establishing use zones, zon-

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ing codes set formulas regulating the bulk and height of structures within each zone and subzone.

The social value of legislating separate use areas is open to serious question. To be sure, separation of land uses is a natural process that occurs in the absence of zoning. It is natural for businesses to cluster, for heavy industry to occupy certain terrain, for single-character residential areas to develop at certain places at certain times. To the extent that zoning simply recognizes the natural process, it changes nothing and causes no loss. Wherever zoning has operational effect it mandates a use that is not natural (i.e., one that would not occur in the absence of zoning) and perforce it mandates an unnatural allocation of resources that tends to impoverish the total community. In contemporary terms, it is bad ecology.

It is bad ecology partly because it regards the interest of some proximate land users as the equivalent of "the general interest." The entire organism, the total community, is thrown out of balance for what is presumed to be the interest of a local part. Assume, for instance, that an area is zoned for one-family homes, minimum lot size one-half acre, and that a builder proposes to build a highrise apartment building on a part of that area. The proximate land users, or even only a majority of them, want zoning restriction as protection for their interest in maintaining "the character of their community." But protection of their interest means a loss to the owner of the land, an injury to his interest; it deprives workmen of jobs; it deprives the potential apartment dwellers of the opportunity to rent or buy quarters that they might want and be willing to pay for. It prevents concentrated use where concentrated use is indicated by the willingness of someone to risk his money and consequently condemns a greater quantity of land to development in order to house the same population.

Is It Fair?

One may also question the fundamental fairness of allowing the residents of subdivisions to use the political process to insure that their neighbors will not live in apartment houses or be less affluent than they, or will not construct homes appreciably smaller than theirs, or build a factory. In effect, zoning grants to a local majority the right to exclude which is the essence of ownership.

The rationale for allowing B to exercise rights of ownership over A's land ought to be found in the

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impact to B of A's proposed use of A's land. Any use that A puts his land to will have some impact on B. On one end of the scale are those uses that palpably impact on B, those uses that may be thought of as "overflowing uses." When A creates noxious smells that waft over to B's land or A creates noises that substantially disturb B, A is really using not his own land but B's. The fairness of allowing B or a governmental agency as representative of B, to restrain A from overflowing use seems clear. Traditionally such conduct is controlled by the law of nuisance, civil and criminal.

The case is otherwise where A's proposed use has "minimal" impact on B's enjoyment of his land. Then the Common Law is neutral, confessing its inability to judge, absent overflowing use, whether there is greater merit in A's proposed use or in B's demand that it be restrained. Since in this example it is impossible to discern rationally whether there is more merit in one course or the other, the basis for zoning's claim to fairness must rest elsewhere than in its ability to balance competing interests fairly.

Restraining the Majority

It is in the employment of the political process, the will of the majority as expressed by a fairly conducted vote, on which zoning's claim to fairness must rest. But to equate "majority rule" with "fairness" or "democratic process" is terribly inexact. We may assume that "majority rule" is fair when applied to the political process (although its best justification is practicality, not fairness). But we are bound to conclude that the hallmark of the democratic state is its restraint in applying the political process to the activities of its citizens.

Since zoning is only one of a host of forces shaping land use it is difficult to measure its practical effects. There certainly is no evidence that the introduction of comprehensive zoning has improved the amenities of cities and substantial evidence that it has reduced them.

Changing Technology

The draftsmen of the 1916 zoning code of New York City began their work in 1913 and it lasted without substantial revision until 1939. Like all zoning plans it was drawn in the light of technology generally available some years earlier and it was addressed to problems set in motion decades or centuries earlier and then apparent. The decent motives of those draftsmen and their competence are unquestioned but their forward vision had to be small. Their

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image of the ideal city was heavily tinted by their memories of a more bucolic and less populous city of their youth. They were constrained to project the future as a virtually straight-line extension of the past. They simply could not (nor could anybody else) anticipate and plan for the tumultuous events of the next 23 years: United States entry into World War I, the virtual cessation of immigration after 1924, the Great Depression, the ubiquitous and ferocious automobile, airconditioning, the supermarket, penicillin.

Clouded Crystal Ball

The planners' cloudy crystal ball, focused on the presumed unhealthiness of the towering office building, engendered the zoning ziggurats, the wedding-cake buildings that mar the horizon without lessening congestion in any meaningful way or adding to the comfort of office workers. The zoners' fondness for and familiarity with row houses and their evident antipathy to tenements promoted the construction and the retention of smaller houses. Dwellings adequate according to the standards of 1919 or 1925 but decrepit and dilapidated 30 or 40 years later often cannot be restored to livability and economic usefulness because of zoning restrictions. Inner city areas are thus condemned to total devastation before rebuilding can begin. Neighborhoods that might have survived in changed but recognizable form are totally obliterated, their diversity and their humanity trucked away with the rubble.

Lack of Flexibility

The consequences of the inherent lack of flexibility of zoning are multifarious. Some land stays idle awaiting industrial use that never arrives. The assemblage of economically buildable parcels is made unnaturally expensive because builders must pay not only for the inherent value of land but also for the value conferred by zoning. Tax rolls are permanently maimed and the economic viability of the city endangered because tax concessions can be extracted for large scale development where small scale and piecemeal rebuilding is hampered by zoning restrictions. Long after neighborhoods have been thoroughly run down and all but abandoned they continue zoned for residential use, the nonresidents thereof protected from industrial incursion. Where zoning's mortmain prevails, sound residences now too large for single-family occupancy will often decay to total uselessness before a new use as shop, store or multi-family residence is permitted by grant of variance or rezoning. The

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hub city stagnates while green areas at the city's fringe or in the suburbs are paved over. Multitudes are condemned to commuter trains who, but for zoning, might have lived in comfort close to their work.

Freedom Encourages Excellence

One of the goals of zoning was a better-looking city. Sadly, the goal remains unrealized. Zoning provokes monumental errors. Dissatisfied with the wedding-cake structure induced by the previous code, misled by the fortuitous excellence of Lever House and the Seagram Building, the 1960 code draftsmen granted height premiums for deep, ground-level setbacks. The result: Sixth Avenue, lined with surly, remote towers disdaining mere commerce, without a drug store or a delicatessen, inhumanly neat, without shelter or human scale for three-quarters of a mile.

Repealing zoning is no guaranty of architectural excellence. One thing is certain, ugly buildings will continue to be built. But architectural excellence is encouraged by freedom not by conformity to stale committee judgment.

Variances and rezoning are insufficient remedies for zoning's rigidity, its basic conservatism. Both do add some flexibility; both are objectionable. Proceedings for variances from zoning's rigors, limited in scope to begin with, are expensive and time-consuming. They are a potent source of graft and neighborly extortion. Spot rezoning is so patently unfair it is unconstitutional. Comprehensive rezoning has to be so infrequent that it adds only minimal flexibility. "Discretionary zoning" is undisguised tyranny.

A Proper Blend of Uses

Has zoning increased the amenities of the city by legislating the separation of residential, commercial and industrial use zones? In much of New York City an observer uninformed of the existence of such zoning would be hard pressed to discover it for most areas exhibit a blend of uses. In much of Manhattan, for instance, the separation is a matter of a few feet, around the corner, across the street. Even so, Park Avenue between 59th Street and 95th Street is no more pleasant and a lot duller without stores and offices than Madison and Lexington with them. In mid-Manhattan and for certain people, at least, the quality of life is not diminished by proximity to commercial activities and may even be enhanced by it. Vertical separation is sufficient for comfort. Indeed, the City of New York has recently begun to encourage the construction of buildings with

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offices and stores below and apartments above, an arrangement that zoning restricted for 50 years.

The minimum conclusion is that a blend of commercial and residential uses does not by itself make for unpleasant living.

Residential and Industrial

The compatibility of residential and industrial use turns entirely on the question of overflowing or nuisance use. There is otherwise no categorical answer to the question of whether the operation of a factory at any spot on a map will diminish the amenities of a nearby residential area. Zoning treats the problem of overflowing use in the grossest terms, quarantining the patient instead of trying to cure the disease and coincidentally creating enormous traffic problems by confining factories to remote areas. To assert that this quarantine approach of zoning has contributed to the intensity of our present pollution problems is not wrong. Governmental coercion ought to be directed at compelling factories to confine their business to their own land so that they are unobjectionable neighbors wherever they are. The quality of life is not and ought not to be dependent upon legislative separation of residential and industrial areas.

Zoning's bulk and height limitations turn out to be equally irrelevant to the quality of life. People can live and work in very large buildings in great comfort and in smaller ones in squalor; the contrary is also true.

Old Problems Remain; Zoning Brings New Ones

From these conclusions one further conclusion can be drawn. The unlovely city is not caused by a lack of zoning and is not helped by zoning. Zoning simply creates a new set of problems.

No zoning plan can be devised that does not exhibit the deadly defects of the zoning plans dealt with here. Zoning plans face the problems of the future with the full confidence that they can prevent 1915 or 1938 or 1959 from ever coming back. They are and have to be drawn in the light of old technology, old resources, old problems and old ideas. They are inherently inflexible, unable to adjust to new technology, new resources, new ideas, new needs. Zoning plans can confer order, but the order is the order of the cemetery or Williamsburg. Zoning, like all ecosystem modifications, itself produces effects unforeseeable when the plan is made. The greater zoning's scope the greater the chance that these unforeseeable effects will cause monumental and persistent harm. To argue that the huge size and complexity of mod-

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ern cities make imperative the imposition of zoning is quite untrue. The larger and more complex the ecosystem the less likely that it can be controlled by plans set years before.

After a half-century of comprehensive zoning in an era of increasing regulation it may be somewhat hard to accept the idea that places can flourish without zoning, but they always have and they do so now.[1] For all these reasons I conclude that the most acceptable order of land use will arise without zoning just as the public press will have its most acceptable order without censorship.

[1] Though my grandfather warned me that "'for example' is no proof," interested readers are directed to examine Houston, Texas, which has never been zoned and which is the subject of an admirable article by Bernard H. Siegan, "Non-Zoning in Houston," *Journal of Law and Economics*, April, 1970.

IDEAS ON LIBERTY

Incompatible Systems

BY DEFINITION, zoning is an interference with the right of ownership. When an owner of a property may use such property, consume it, give it away, exchange it – all as he wishes – that is ownership. Zoning reduces his latitude of action by political restrictions that prevent certain possible uses and require others. *Zoning* and *owning* are different systems of determining land use. Either the land will be privately owned and its use determined by the owner to his greatest satisfaction from the choices available to him in the market place, or the land will be used as directed by government.

Zoning and *owning* are incompatible. Since the former is an interference with ownership, zoning at best is a "respectable" mid-twentieth century form of theft of an owner's right to own. Whenever the right to own is removed, restricted, or eroded in any manner, society declines toward a lower level of economic goods that is matched by a lower level of spiritual and moral values.

From "Zoned or Owned?" by JOHN C. SPARKS

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PLAYING the percentages may let you down: a well-protected political candidate, for example, can be shot in a suburban shopping center by a kook trailing him from a distant city, which means there is no absolute safety anywhere. But David and Holly Franke, distressed by poll findings that one American in eight would like to move abroad to escape crime, drugs and long-distance busing to poor schools, decided to go by the percentages anyway. They got out the FBI crime reports, looked up the places with low rates of homicide and forcible rape, and wrote to a thousand promising U.S. communities for information about local conditions. Then they set out on an automobile tour of America to have a look at forty-six communities where it seemed that life might still be happy, tranquil, profitable and at least relatively free of the fear that the U.S. is doomed to a continuing steep decline.

The result of this unique odyssey is a gigantic volume of 932 pages, *Safe Places* (Arlington House, $13.95). The book is part narrative and description, part sociological analysis, and part encyclopedia. The easy reading alternates with the dry statistics of real estate offerings, job opportunities, teacher-pupil ratios, public tennis courts and all the other things that one must consider if one is to pull up stakes and make a move to a new place. Thus the book makes its appeal to two classes of reader, the person who wants an answer to the question of

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"Whither America?," and the genuine seeker for a new life where he won't be mugged or murdered if he takes a little stroll after dark. The first type of reader will skip much of the material that tells of such things as the availability of savings banks and the proximity of golf courses; the second type, with real commitments to make, will want to ponder every word.

Good News — and Bad

The good news of the Frankes' book is that there are many spots throughout America that retain their beauty and their calm along with the opportunity to make good livings at interesting jobs. They can be found in New England, in towns such as Farmington, Connecticut, or Camden, Maine; in the Deep South along the Gulf Coast (Fairhope, Alabama, sounds absolutely delightful); in Arizona (the Flagstaff area); even in the supposedly flat Middle West (see Tiffin, Ohio, or Winona, Minnesota.) Surprisingly, there is a safe and lovely town within shouting distance of New York, as the Frankes learned by dalliance in Nutley, New Jersey. Highland or lowland, desert or four-season Northland, there are good places for all tastes in the continental U.S.

There are, nonetheless, disturbing factors that the Frankes make no attempt to hide. One particularly disconcerting thing about the book is the way the authors have to squirm to get away from the interweaving hippie and drug problems, which tend to be peripatetic. Our travelers blame the popularizing effects of TV and the return of college students for the fact that drugs are almost universally available. Another worry is the spill-back from California, which means that people are buying up the available properties and local businesses in Nevada, Oregon and Idaho, much to the dismay of Oregon's Governor Tom McCall who wants to keep his State green and unpolluted. Florida and California both suffer from being too popular, and the drive of the American population into the Sun Belt could eventually inundate and spoil the southeastern corner of Texas, where the humus on alluvial lands runs 1,600 feet deep and the lemons are bigger than oranges.

Then there is the question of money: inflated currency may still buy good homes in Ogallala, Nebraska, and pay the one per cent city sales tax in Alpine, Texas, but how does the average pocketbook finance the search for safety in California? To the Frankes, California is still a most glamorous State. So it is with mournful honesty that they feel compelled to

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report that earthquakes are not the only things that menace the good life west of the Sierras. California, in fact, has replaced New York as the symbol of what has gone wrong with America. Looking hard, the Frankes singled out as safe places three California communities – Belvedere on the north shore of San Francisco Bay, St. Helena in the Napa Valley, and San Marino, a southern California enclave just off the Pasadena Freeway. All of these places have low crime rates, with no murders or forcible rapes occurring in any of them for the year 1969.

The Price May Be High

But to escape from San Francisco, which has a murder rate of 17.7 per 100,000 population, to a commuter's heaven in Belvedere demands a bank president's wad. Bayfront property in Belvedere starts at $90,000, "with $125,000 a more realistic estimate of what you would probably pay." As a real estate agent put it to the Frankes, "Marin County is like a country club – if you can afford to pay the dues, it's great." The cost, then, of getting one's children out of San Francisco, which fathered the Haight-Ashbury hippie culture, to safe Marin County is so far beyond most purses that it won't bear thinking about. St. Helena in the Napa Valley is a better home-buying prospect, but it is more than an hour from San Francisco where the jobs (save for grapes and truck crops) happen to be. As for San Marino, near Los Angeles, the citizens have had to be a most stalwart breed to support their unusual police department. There is a constant 24-hour surveillance of the whole community, with a strict "House Watch" service and tough zoning that prohibits certain types of business that might attract the attention of criminals. The police make checks every day at incalculable moments of all property that is empty. So, though San Marino is safe, it lives under a virtual state of seige.

Small Colleges Are Safer

Many of the places investigated by the Frankes happen to be college towns. But the rule is that a college must be small to add to the livability of a place. Moscow, Idaho, can "digest" the University of Idaho because the preponderance of its 6,000 students are in agriculture, business, engineering, law, mines, forestry, wild life, education and economics. Unlike the liberal arts students when they exceed a critical volume, the "aggies" and the business majors are serious types. Grinnell, Iowa, is another placid college town that has had no murders, forcible rapes or serious campus disturbances.

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But, again, Grinnell is small and, with a faculty-student ratio of 1 to 10, its college is geared to rather intensive work.

For *Freeman* readers, the Frankes' sidetrip from Grinnell to the Amana Colonies forty miles east of the town points an interesting moral. The Amana Colonies were created by an Old World sect known as the True Inspirationists. Of German, Swiss and Alsatian ancestry, the True Inspirationists held things in common and handed down their skills from father to son. But in 1932 they switched to free enterprise and separated church from state. The change has brought great prosperity without any diminishment of the local craftsmanship.

Safe Places is fascinating reporting, and the riches the book contains are far too numerous for citation in a short review. Whether you want to move for good, or merely want to travel, this is the book for you, and you, and you.

▶ FREEDOM AND THE LAW by Bruno Leoni (Los Angeles: Nash Publishing Company, 1972, 204 pp., $7.50)

Reviewed by Tommy W. Rogers

THOSE WHO VALUE individual freedom, suggests the late Professor Leoni, should reassess the place of the individual within the present legal system which is centered on and almost completely identified with legislation.

While many today pay lip service to the Romans and to the British for their legal wisdom, few realize how limited was the legislation and, consequently, how great the sphere of the individual in both Rome and England during the centuries when their respective legal systems were most flourishing and successful.

Both the Romans and the English, Leoni writes, shared the idea that the law is something to be *discovered* more than to be *enacted*, and that nobody is so powerful, or so righteous, as to insist that his own will be made the law of the land. Today, ordinary legislation and even constitutions and codes are presented, not as the result of an orderly historical process, but as a new approach, through unprecedented decisions, to what the law *should be*. Legislation has come to resemble a sort of dictate that the winning majorities impose upon the minorities.

Leoni decries the current tendency to identify law exclusively with legislation and written statutes to the neglect of common law, custom, convention, tacit rules and private spontaneous adjustment. He deems it questionable that legislation should be used as a means of subjecting minorities. "It also

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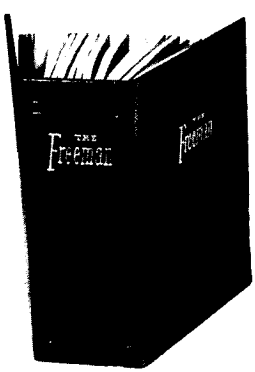
seems unquestionable that we should reject the legislative process *whenever it is possible for the individuals involved to obtain their group objectives without depending upon the decision of a group and without actually constraining any other people to do what they would never do without constraint.*"

Leoni maintains that blind acceptance of the contemporary legal point of view will lead to gradual destruction of individual freedom of choice in politics, the market, and private life. The contemporary legal point of view means the increasing substitution of group decisions – majority rule – for individual choices.

Leoni notes the semantic confusion in the words "freedom" and "constraint" and examines the relation of freedom to such concepts as the "rule of law," "equality before the law," and "representative government." He discusses such topics as rent control, privileges and immunities granted to labor unions, and the general proliferation of statutory and administrative law.

Freedom and the Law grew out of Professor Leoni's lectures at the Fifth Institute on Freedom and Competitive Enterprise at Claremont Men's College in 1958. The current edition of the book (first published in 1961) is sponsored by the Institute for Humane Studies, Inc., Menlo Park, California.



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